



J. TYLER McCaULEY
AUDITOR-CONTROLLER

**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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LOS ANGELES, CALIFORNIA 90012-2766
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June 21, 2000

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Higashi:

**County of Los Angeles Test Claim
Welfare and Institutions Code Subsections 8103(f) and 8103(g) as
Added and Amended by Chapter 9, Statutes of 1990, Chapter 177,
Statutes of 1990 Chapter 955, Statutes of 1991, Chapter 1326,
Statutes of 1992, Chapter 610, Statutes of 1993, Chapter 611,
Statutes of 1993, Chapter 224, Statutes of 1994, Chapter 1075,
Statutes of 1996, Chapter 578, Statutes of 1999
Firearm Hearings for Discharged Inpatients**

The County of Los Angeles submits this test claim to obtain timely and complete reimbursement for the State-mandated local program in the referenced statutes.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

J. Tyler McCauley
Auditor-Controller

JTM:JN:LK
Enclosures

County of Los Angeles Test Claim
Welfare and Institutions Code Subsections 8103(f) and 8103(g) as Added and
Amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990
Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610,
Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994,
Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999
Firearm Hearings for Discharged Inpatients

State of California
COMMISSION ON STATE MANDATES
1414 K Street, Suite 315
Sacramento, CA 95814
(916) 323-3562
CSM 1 (12/89)

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| JUN 22 2000 |
| COMMISSION ON STATE MANDATES |
| Claim No. |

TEST CLAIM FORM

Local Agency or School District Submitting Claim

Los Angeles County

99-TC-11

Contact Person

Leonard Kaye

Telephone No.

(213) 974-8564

Address

500 West Temple Street, Room 603
Los Angeles, California 90012

Representative Organization to be Notified

California State Association of Counties

This test claim alleges the existence of "costs mandated by the state" within the meaning of section 17514 of the Government Code, and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code section(s) within the chaptered bill, if applicable.

See page i

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING A TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

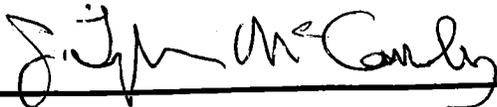
Telephone No.

J. Tyler McCauley
Auditor-Controller

(213) 974-0729

Signature of Authorized Representative

Date



6/21/00

County of Los Angeles Test Claim
Welfare and Institutions Code Subsections 8103(f) and 8103(g) as Added and
Amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990
Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610,
Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994,
Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999
Firearm Hearings for Discharged Inpatients

Mandated Hearings

New State-mandated firearm hearings for discharged inpatients are set forth in Welfare and Institutions Code Subsections 8103(f) and 8103(g) as added and amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990 Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610, Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994, Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999, hereafter referred to as the subject law.

Under the subject law, a hearing process to determine whether specified discharged inpatients, held under the provisions of Welfare and Institutions Code sections 5150, 5250, 5260, or 5270.15, could own, possess, control, receive, purchase or, attempt to own, possess, control, receive, purchase any firearm, was not required or even available under prior law: Welfare and Institutions Code Section 8103 as amended by Chapter 1324, Statutes of 1985 [attached in Tab 13].

Welfare and Institutions Code Subsection 8103(f)

Welfare and Institutions Code subsection 8103(f) has required, since the enactment of Chapter 9, Statutes of 1990, and continues to require, the provision of district attorney firearm hearing services to specified discharged persons, previously taken into custody as provided in Welfare and Institutions Code section 5150 because that person is a danger to himself, herself, or to others.

Welfare and Institutions Code subsection 8103(f), in its current form as amended by Chapter 578, Statutes of 1999, mandates that district attorney firearm hearing services be provided as follows:

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

(2) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility. Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

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

(4) The Department of Justice shall provide the form upon request to any person described in paragraph (1). The Department of Justice shall also provide the form to the superior court in each county. A person

described in paragraph (1) may make a single request for a hearing at any time during the five-year period. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) Any person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 30 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 14 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county mental health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section.

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

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

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

As noted above, Welfare and Institutions code subsection 8103(f) permits patients held under Welfare and Institutions code section 5150, and subsequently discharged, to request a hearing from a court for an order permitting the person to own, possess, control, receive, or purchase a firearm.

Section 5150 Holds are Civil in Nature

Criminal charges are not brought to hold a person under Welfare and Institutions code section 5150. Rather, the procedure is civil. To hold a person under Welfare and Institutions code section 5150, that person must be found to require 72-hour treatment and evaluation as a potentially dangerous or gravely disabled person. Specifically, Welfare and Institutions code section 5150 provides that:

"When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team

provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false."

Therefore, when a Welfare and Institutions code section 5150 patient is discharged and seeks an order to own, possess, control, receive, or purchase a firearm, he or she does so without a criminal record due to the 5150 hold. Therefore, the firearm hearing process is civil in nature. No criminal law was broken and no law is broken when the discharged psychiatric patient applies for a firearm under the subject law.

Therefore, when holding and discharging a person under Welfare and Institutions code section 5150, and subsequently providing civil district attorney firearm hearing services under the subject law, the criminal funding disclaimer is not applicable. This criminal disclaimer, found in Government Code subsection 175569(g), is only applicable where "[t]he statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction".

Certainly, the subject law did not criminalize Welfare and Institutions Code section 5150 and did not invite criminal behavior when providing that dangerous or gravely disabled persons who are held for a 72-hour treatment may, immediately upon discharge, apply to own, possess, control, receive, or purchase a firearm.

Therefore, District Attorney firearm hearing services imposed upon the County under the test claim legislation are civil in nature, not subject to the criminal funding disclaimer.

Welfare and Institutions Code Subsection 8103(g)

Welfare and Institutions Code subsection 8103(g) has required, since the enactment of Chapter 9, Statutes of 1990, and continues to require, the provision of district attorney firearm hearing services to specified discharged persons, previously certified for intensive treatment under Welfare and Institution Code sections 5250, 5260, or 5270.15.

Welfare and Institutions Code subsection 8103(g), in its current form as amended by Chapter 578, Statutes of 1999, mandates that district attorney firearm hearing services be provided as follows:

"(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years. Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

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

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

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent

in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition, and the county mental health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information."

Section 5250 Holds are Civil in Nature

Criminal charges are not brought to hold a person under Welfare and Institutions code section 5250. Rather, the procedure is civil. To hold a person under Welfare and Institutions code section 5250, that person must be found to require up to 14 more days of treatment and evaluation after a 72-hour [section 5150] hold as a

potentially dangerous or gravely disabled person. Specifically, Welfare and Institutions code section 5250 provides that:

"If a person is detained for 72 hours under the provisions of Article 1 (commencing with Section 5150), or under court order for evaluation pursuant to Article 2 (commencing with Section 5200) or Article 3 commencing with Section 5225) and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to the mental disorder or impairment by chronic alcoholism, under the following conditions:

(a) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and has found the person is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled.

(b) The facility providing intensive treatment is designated by the county to provide intensive treatment, and agrees to admit the person. No facility shall be designated to provide intensive treatment unless it complies with the certification review hearing required by this article. The procedures shall be described in the county Short-Doyle plan as required by Section 5651.3.

(c) The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis.

(d) (1) Notwithstanding paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter. (2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help. (3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the certification review officer to publicly find, that no one is willing or able to assist the mentally disordered person in providing for the person's basic needs for food, clothing, or shelter."

Therefore, when a Welfare and Institutions code section 5250 patient is discharged and seeks an order to own, possess, control, receive, or purchase a firearm, he or she does so without a criminal record due to the 5250 hold. Therefore, the firearm hearing process is civil in nature. No criminal law was broken and no law is broken when the discharged psychiatric patient applies for a firearm under the subject law.

Therefore, when holding and discharging a person under Welfare and Institutions code section 5250, and subsequently providing civil district attorney firearm hearing services under the subject law, the criminal funding disclaimer is not applicable. This criminal disclaimer, found in Government Code subsection 175569(g), is only applicable where “[t]he statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction”.

Certainly, the subject law did not criminalize Welfare and Institutions Code section 5250 and did not invite criminal behavior when providing that dangerous or gravely disabled persons may, immediately upon discharge, apply to own, possess, control, receive, or purchase a firearm.

Therefore, District Attorney firearm hearing services imposed upon the County under the test claim legislation are civil in nature, not subject to the criminal funding disclaimer.

Section 5260 Holds are Civil in Nature

Criminal charges are not brought to hold a person under Welfare and Institutions code section 5260. Rather, the procedure is civil. To hold a person under Welfare and Institutions code section 5260, that person must be found to require up to 14 more days of treatment and evaluation after a prior 14 day [section 5250] hold and a prior 72-hour [section 5150] hold as a potentially dangerous or gravely disabled person. Specifically, Welfare and Institutions code section 5260 provides that:

"At the expiration of the 14-day period of intensive treatment any person who, as a result of mental disorder or impairment by chronic alcoholism, during the 14-day period or the 72-hour evaluation period, threatened or attempted to take his own life or who was detained for evaluation and treatment because he threatened or attempted to take his own life and who continues to present an imminent threat of taking his own life, may be confined for further intensive treatment pursuant to this article for an

additional period not to exceed 14 days. Such further intensive treatment may occur only under the following conditions:

(a) The professional staff of the agency or facility providing intensive treatment services has analyzed the person's condition and has found that the person presents an imminent threat of taking his own life.

(b) The person has been advised of, but has not accepted, voluntary treatment.

(c) The facility providing additional intensive treatment is equipped and staffed to provide treatment, is designated by the county to provide such intensive treatment, and agrees to admit the person.

(d) The person has, as a result of mental disorder or impairment by chronic alcoholism, threatened or attempted to take his own life during the 14-day period of intensive treatment or the 72-hour evaluation period or was detained for evaluation and treatment because he threatened or attempted to take his own life."

Therefore, when a Welfare and Institutions code section 5260 patient is discharged and seeks an order to own, possess, control, receive, or purchase a firearm, he or she does so without a criminal record due to the 5260 hold. Therefore, the firearm hearing process is civil in nature. No criminal law was broken and no law is broken when the discharged psychiatric patient applies for a firearm under the subject law.

Therefore, when holding and discharging a person under Welfare and Institutions code section 5260, and subsequently providing civil district attorney firearm hearing services under the subject law, the criminal funding disclaimer is not applicable. This criminal disclaimer, found in Government Code subsection 175569(g), is only applicable where "[t]he statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction".

Certainly, the subject law did not criminalize Welfare and Institutions Code section 5260 and did not invite criminal behavior when providing that dangerous or gravely disabled persons may, immediately upon discharge, apply to own, possess, control, receive, or purchase a firearm.

Therefore, District Attorney firearm hearing services imposed upon the County under the test claim legislation are civil in nature, not subject to the criminal funding disclaimer.

Section 5270.15 Holds are Civil in Nature

Criminal charges are not brought to hold a person under Welfare and Institutions code section 5270.15. Rather, the procedure is civil. To hold a person under Welfare and Institutions code section 5270.15, that person must be found to require up to 30 more days of treatment and evaluation after a prior 14 day [section 5250] hold and a prior 72-hour [section 5150] hold as a potentially dangerous or gravely disabled person. Specifically, Welfare and Institutions code section 5270.15 provides that:

"Upon the completion of a 14-day period of intensive treatment pursuant to Section 5250, the person may be certified for an additional period of not more than 30 days of intensive treatment under both of the following conditions:

(a) The professional staff of the agency or facility treating the person has found that the person remains gravely disabled as a result of a mental disorder or impairment by chronic alcoholism.

(b) The person remains unwilling or unable to accept treatment voluntarily. any person certified for an additional 30 days pursuant to this article shall be provided a certification review hearing in accordance with Section 5256 unless a judicial review is requested pursuant to Article 5 (commencing with Section 5275). The professional staff of the agency or facility providing intensive treatment shall analyze the person's condition at intervals of not to exceed 10 days, to determine whether the person continues to meet the criteria established for certification under this section, and shall daily monitor the person's treatment plan and progress. Termination of this certification prior to the 30th day shall be made pursuant to Section 5270.35."

Therefore, when a Welfare and Institutions code section 5270.15 patient is discharged and seeks an order to own, possess, control, receive, or purchase a firearm, he or she does so without a criminal record due to the 5270.15 hold. Therefore, the firearm hearing process is civil in nature. No criminal law was broken and no law is broken when the discharged psychiatric patient applies for a firearm under the subject law.

Therefore, when holding and discharging a person under Welfare and Institutions code section 5270.15, and subsequently providing civil district attorney firearm hearing services under the subject law, the criminal funding disclaimer is not applicable. This criminal disclaimer, found in Government Code subsection 175569(g), is only applicable where “[t]he statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction”.

Certainly, the subject law did not criminalize Welfare and Institutions Code section 5270.15 and did not invite criminal behavior when providing that dangerous or gravely disabled persons may, immediately upon discharge, apply to own, possess, control, receive, or purchase a firearm.

Therefore, District Attorney firearm hearing services imposed upon the County under the test claim legislation are civil in nature, not subject to the criminal funding disclaimer.

State Funding Disclaimers are Not Applicable

There are seven disclaimers specified in Government Code (GC) Section 17556 which could serve to bar recovery of “costs mandated by the State”, as defined in GC Section 17514. These seven disclaimers do not apply to the instant claim, as shown, in seriatim, for pertinent sections of GC Section 17556.

- (a) “The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the Program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency to implement a given program shall constitute a request within the meaning of this paragraph.”
- (a) is not applicable as the subject law was not requested by the County claimant or any local agency or school district.

- (b) "The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts."
- (b) is not applicable because the subject law did not affirm what had been declared existing law or regulation by action of the courts.
- (c) "The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation."
- (c) is not applicable as no federal law or regulation is implemented in the subject law.
- (d) "The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service."
- (d) is not applicable as there is no authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.
- (e) "The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate."
- (e) is not applicable as no offsetting savings are provided in the subject law.

- (f) "The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a Statewide election."
- (f) is not applicable as the duties imposed in the subject law were not included in a ballot measure.
- (g) "The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction."
- (g) is not applicable as the subject law did not create or eliminate a crime or infraction and did not change that portion of the statute not relating directly to the penalty enforcement of the crime or infraction. Indeed, as previously discussed, the subject firearm hearing services are civil in nature.

Therefore, the above seven disclaimers will not bar local governments' reimbursement of its costs mandated by the state as claimed herein for district attorney firearm hearing services.

The New District Attorney Firearm Hearing Services are Reimbursable

Counties have unavoidably incurred costs in implementing new State-mandated firearm hearings for discharged inpatients as set forth in Welfare and Institutions Code Subsections 8103(f) and 8103(g) as added and amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990 Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610, Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994, Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999. Such county costs are reimbursable as "costs mandated by the State" as there is no bar or disclaimer to such a finding, as previously discussed, and because such costs satisfy three requirements, found in Government Code Section 17514:

1. There are "increased costs which a local agency is required to incur after July 1, 1980"; and
2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975"; and

3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution".

All three of above requirements for finding "costs mandated by the State" are met herein.

The first two requirements are met. First, local government began incurring costs for (the subject) program as a result of Chapter 9, Statutes of 1990, and incurred such costs well after July 1, 1980. Second, Chapter 9, Statutes of 1990 was enacted on March 5, 1990, well after January 1, 1975.

The third requirement is also met. The subject law imposed new requirements as described in the attached declaration [in Tab 1] of Howard M. Kelner of the Los Angeles County District Attorney's Office.

According to Mr. Kelner, on page 6 of his declaration, "... under the subject law, an estimated 108 firearm hearings will be conducted [by the Los Angeles County District Attorney's Office] from January 1, 2000 through June 30, 2000 and that 4 of the 108 hearings will be contested."

Mr. Kelner continues, on page 6, to declare that "... on average, each undisputed hearing requires 45 minutes of a Los Angeles County deputy district attorney's time to review petitioner's hearing request form, consult with petitioner, prepare for hearing, appear at hearing; and, 45 minutes of a legal secretary's times to initiate and update a case file and database.... [and] ... on average, each disputed hearing requires 75 minutes of a Los Angeles County deputy district attorney's time to review petitioner's hearing request form, consult with petitioner, consult with an expert witness, prepare for hearing, appear at hearing; 55 minutes of a legal secretary's times to initiate and update a case file and database; and, 15 minutes of the time of an expert witness".

Mr. John Paccione, Assistant Director, Bureau of Management and Budget of the Los Angeles County District Attorney's Office, in his declaration, found in Tab 2, dollarizes the new State-mandated firearm hearing services performed by the Los Angeles County District Attorney's Office, as quantified in Mr. Kelner's declaration, in Tab 1. Mr. Paccione's summary of costs mandated by the State under the subject law is as follows:

Schedule 1
Estimated Costs Mandated by the State
January 1, 2000 through June 30, 2000
Los Angeles County District Attorney's Office
Firearm Hearings for Discharged Inpatients

| | | |
|-----|--|----------|
| I. | 104 Undisputed Hearings | |
| | A. Attorney Costs | |
| | 104 Hearings x 3/4 hour x \$91.01 @ hour = | \$7,099 |
| | B. Legal Secretary Costs | |
| | 104 Hearings x 3/4 hour x \$32.91 @ hour = | \$2,567 |
| II. | 4 Disputed Hearings | |
| | C. Attorney Costs | |
| | 4 Hearings x 1.25 hour x \$91.01 @ hour = | \$455 |
| | D Legal Secretary Costs | |
| | 4 Hearings x .9167 hour x \$32.91 @ hour = | \$121 |
| | E Expert Witness Costs | |
| | 4 Hearings x .25 hour x \$200 @ hour = | \$200 |
| | Total | \$10,442 |

Therefore, the subject firearm hearing service costs are reimbursable "costs mandated by the State" and should be paid as detailed and claimed herein.

County of Los Angeles Test Claim
Welfare and Institutions Code Subsections 8103(f) and 8103(g) as Added and Amended by
Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990 Chapter 955, Statutes of 1991,
Chapter 1326, Statutes of 1992, Chapter 610, Statutes of 1993, Chapter 611, Statutes of 1993,
Chapter 224, Statutes of 1994, Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999
Firearm Hearings for Discharged Inpatients

Attachments

A. Declarations

| | |
|------------------|-------|
| Howard M. Kelner | Tab 1 |
| John Paccione | 2 |
| Leonard Kaye | 3 |

B. Test Claim Legislation

| | |
|---------------------------------|----|
| Chapter 9, Statutes of 1990 | 4 |
| Chapter 177, Statutes of 1990 | 5 |
| Chapter 955, Statutes of 1995* | 6 |
| Chapter 1326, Statutes of 1992* | 7 |
| Chapter 610, Statutes of 1993* | 8 |
| Chapter 611, Statutes of 1993* | 9 |
| Chapter 224, Statutes of 1994* | 10 |
| Chapter 1075, Statutes of 1996 | 11 |
| Chapter 578, Statutes of 1999 | 12 |

C. Prior Law

| | |
|---------------------------------|----|
| Chapter 1324, Statutes of 1985 | 13 |
| Chapter 1562, Statutes of 1984 | 14 |
| Chapter 1409, Statutes of 1982 | 15 |
| Chapter 187, Statutes of 1978 | 16 |
| Chapter 1452, Statutes of 1969 | 17 |
| Chapter 1667, Statutes of 1967* | 18 |

* Excerpted in pertinent part.



**LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF SPECIAL OPERATIONS • PSYCHIATRIC SECTION**

GIL GARCETTI • District Attorney
ROBERT P. HEFLIN • Chief Deputy District Attorney
MICHAEL E. TRANBARGER • Assistant District Attorney

ALLEN D. FIELD • Director

**County of Los Angeles Test Claim
Welfare and Institutions Code Subsections 8103(f) and 8103(g) as Added and
Amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990
Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610,
Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994,
Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999
Firearm Hearings for Discharged Inpatients**

Declaration of Howard M. Kelner

Howard M. Kelner makes the following declaration and statement under oath:

I, Howard M. Kelner, Deputy District Attorney in the Psychiatric Section of the Los Angeles County District Attorney's Office, am responsible for implementing new State-mandated firearm hearings for discharged inpatients as set forth in Welfare and Institutions Code Subsections 8103(f) and 8103(g) as added and amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990 Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610, Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994, Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999, hereafter referred to as the subject law.

I declare that firearm hearing services required under the subject law, to determine whether specified discharged inpatients, held under the provisions of Welfare and Institutions Code sections 5150, 5250, 5260, or 5270.15, could own, possess, control, receive, purchase or, attempt to own, possess, control, receive, purchase any firearm, were not required under prior law: Welfare and Institutions Code Section 8103 as amended by Chapter 1324, Statutes of 1985.

I declare that Welfare and Institutions Code subsection 8103(f) has required, since the enactment of Chapter 9, Statutes of 1990, and continues to require, the provision of district attorney firearm hearing services to specified discharged persons, previously taken into custody as provided in Welfare and Institutions Code section 5150 because that person is a danger to himself, herself, or to others.

I declare that Welfare and Institutions Code subsection 8103(f), in its current form as amended by Chapter 578, Statutes of 1999, mandates that district attorney firearm hearing services be provided as follows:

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

(2) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility. Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall provide the person with a form for a request for a hearing. The Department of Justice shall prescribe the form. Where the person requests a hearing at the time of discharge, the facility shall forward the form to the

superior court unless the person states that he or she will submit the form to the superior court.

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

(5) Any person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 30 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 14 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county mental health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds

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

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

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

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

I declare that Welfare and Institutions Code subsection 8103(g) has required, since the enactment of Chapter 9, Statutes of 1990, and continues to require, the provision of district attorney firearm hearing services to specified discharged persons, previously certified for intensive treatment under Welfare and Institution Code sections 5250, 5260, or 5270.15.

I declare that Welfare and Institutions Code subsection 8103(g), in its current form as amended by Chapter 578, Statutes of 1999, mandates that district attorney firearm hearing services be provided as follows:

"(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years. Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

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

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

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date

by the clerk of the court. The district attorney may notify the county mental health director of the petition, and the county mental health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information."

It is my information or belief that, under the subject law, an estimated 108 firearm hearings will be conducted from January 1, 2000 through June 30, 2000 and that 4 of the 108 hearings will be contested.

It is my information or belief that, on average, each undisputed hearing requires 45 minutes of a Los Angeles County deputy district attorney's time to review petitioner's hearing request form, consult with petitioner, prepare for hearing, appear at hearing; and, 45 minutes of a legal secretary's times to initiate and update a case file and database.

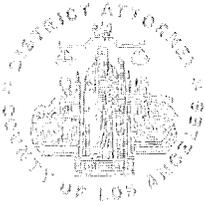
It is my information or belief that, on average, each disputed hearing requires 75 minutes of a Los Angeles County deputy district attorney's time to review petitioner's hearing request form, consult with petitioner, consult with an expert witness, prepare for hearing, appear at hearing; 55 minutes of a legal secretary's times to initiate and update a case file and database; and, 15 minutes of the time of an expert witness.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and to those matters, I believe them to be true.

6/14/00 Los Angeles, CA.
Date and Place

Howard M. Kelman
Signature



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF MANAGEMENT & BUDGET

GIL GARCETTI • District Attorney
ROBERT P. HEFLIN • Chief Deputy District Attorney
SHARON J. MATSUMOTO • Assistant District Attorney

DAVID H. GUTHMAN • Director

County of Los Angeles Test Claim
Welfare and Institutions Code Subsections 8103(f) and 8103(g) as Added and
Amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990
Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610,
Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994,
Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999
Firearm Hearings for Discharged Inpatients

Declaration of John Paccione

John Paccione makes the following declaration and statement under oath:

I, John Paccione, Assistant Director, Bureau of Management and Budget of the Los Angeles County District Attorney's Office, am responsible for fiscal management and administration, including recovering County costs incurred in performing State-mandated programs, and for determining State-mandated County costs unavoidably resulting from the subject law [Welfare and Institutions Code Subsections 8103(f) and 8103(g) as added and amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990 Chapter 955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610, Statutes of 1993, Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994, Chapter 1075, Statutes of 1996, Chapter 578, Statutes of 1999].

I declare that I have examined the County's costs in conducting firearm hearing services required under the subject law, to determine whether specified discharged inpatients, held under the provisions of Welfare and Institutions Code sections 5150, 5250, 5260, or 5270.15, could own, possess, control, receive, purchase or, attempt to own, possess, control, receive, purchase any firearm.

I declare that Welfare and Institutions Code subsection 8103(f) has required, since the enactment of Chapter 9, Statutes of 1990, and continues to require, the provision of district attorney firearm hearing services to specified discharged persons, previously taken into custody as provided in Welfare and Institutions Code section 5150 because that person is a danger to himself, herself, or to others.

I declare that Welfare and Institutions Code subsection 8103(f), in its current form as amended by Chapter 578, Statutes of 1999, mandates that district attorney firearm hearing services be provided as follows:

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

(2) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility. Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall provide the person with a form for a request for a hearing. The Department of Justice shall prescribe the form. Where the person requests a hearing at the time of discharge, the facility shall forward the form to the

superior court unless the person states that he or she will submit the form to the superior court.

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

(5) Any person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 30 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 14 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county mental health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds

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

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

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

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

I declare that Welfare and Institutions Code subsection 8103(g) has required, since the enactment of Chapter 9, Statutes of 1990, and continues to require, the provision of district attorney firearm hearing services to specified discharged persons, previously certified for intensive treatment under Welfare and Institution Code sections 5250, 5260, or 5270.15.

I declare that Welfare and Institutions Code subsection 8103(g), in its current form as amended by Chapter 578, Statutes of 1999, mandates that district attorney firearm hearing services be provided as follows:

"(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years. Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

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

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

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date

by the clerk of the court. The district attorney may notify the county mental health director of the petition, and the county mental health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information."

It is my information or belief, in accordance with the declaration of Howard M. Kelner, that, under the subject law, an estimated 108 firearm hearings will be conducted from January 1, 2000 through June 30, 2000 and that 4 of the 108 hearings will be contested.

It is my information or belief, in accordance with the declaration of Howard M. Kelner, that, under the subject law, on average, each undisputed hearing requires 45 minutes of a Los Angeles County deputy district attorney's time to review petitioner's hearing request form, consult with petitioner, prepare for hearing, appear at hearing; and, 45 minutes of a legal secretary's times to initiate and update a case file and database.

It is my information or belief, in accordance with the declaration of Howard M. Kelner, that, under the subject law, on average, each disputed hearing requires 75 minutes of a Los Angeles County deputy district attorney's time to review petitioner's hearing request form, consult with petitioner, consult with an expert witness, prepare

for hearing, appear at hearing; 55 minutes of a legal secretary's times to initiate and update a case file and database; and, 15 minutes of the time of an expert witness.

I declare that the County's estimated costs in performing the subject State-mandated firearm hearing services, as illustrated in the attached Schedule 1, are fairly stated, true and correct.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and to those matters, I believe them to be true.

6/19/00 L.A. County
Date and Place

John Paccioni
Signature

Schedule 1
Estimated Costs Mandated by the State
January 1, 2000 through June 30, 2000
Los Angeles County District Attorney's Office
Firearm Hearings for Discharged Inpatients

| | | | |
|-----|--|--|----------|
| I. | 104 Undisputed Hearings [Note 1] | | |
| | A. Attorney Costs | | |
| | 104 Hearings x 3/4 hour x \$91.01 @ hour = | | \$7,099 |
| | B. Legal Secretary Costs | | |
| | 104 Hearings x 3/4 hour x \$32.91 @ hour = | | \$2,567 |
| II. | 4 Disputed Hearings [Note 1] | | |
| | C. Attorney Costs | | |
| | 4 Hearings x 1.25 hour x \$91.01 @ hour = | | \$455 |
| | D Legal Secretary Costs | | |
| | 4 Hearings x .9167 hour x \$32.91 @ hour = | | \$121 |
| | E Expert Witness Costs | | |
| | 4 Hearings x .25 hour x \$200 @ hour = | | \$200 |
| | Total | | \$10,442 |

Note 1

The number of hearings and average time per hearing, by employee classification, were obtained from the declaration of Howard M. Kelnner, attached herein. The employee hourly rates were computed using each employee's productive hourly salary rate [Attachment A] and pertinent indirect cost and fringe benefit rates [Attachment B].

Attachment A

C:\My Documents\PHR.xls\Sheet1

PRODUCTIVE HOURLY RATE

| Item | Monthly Salary | Annual Salary | Productive No. of Hrs. | Rate per Hour |
|---------|----------------|---------------|------------------------|---------------|
| DDA III | 8,311.27 | 99,735.24 | 1,762 | 56.60 |
| LOSA I | 3,006.18 | 36,074.16 | 1,762 | 20.47 |

**DISTRICT ATTORNEY
INDIRECT COST PROPOSAL
FISCAL YEAR 1999-2000 (1)**

| | Bureau of Management & Budget | Bureau of Branch & Area Ops. | Bureau of Central Ops. | Bureau of Special Ops. | Bureau of Investigation | Bureau of Family Support |
|--------------------------|-------------------------------|------------------------------|------------------------|------------------------|-------------------------|--------------------------|
| Countywide Overhead | -2.809% | -2.809% | -2.809% | -2.809% | -2.809% | NA |
| Department Overhead | 8.093% | 8.093% | 8.093% | 8.093% | 8.083% | 8.093% |
| Bureau Overhead | NA | 20.650% | 23.794% | 21.464% | 30.640% | NA |
| Total | 5.284% | 25.933% | 29.077% | 26.748% | 35.924% | 8.093% |
| Employee Benefits | 34.042% | 34.042% | 34.042% | 34.042% | 34.042% | 34.042% |

(1) Please note that all estimated costs for 1999-2000 were based on actual costs for 1996-97 per the 1998-99 Indirect Cost Proposal (ICP). Departmental and Bureau carry forwards were not included since these adjustments were included in the 1998-99 ICP.



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427



J. TYLER McCAULEY
AUDITOR-CONTROLLER

**County of Los Angeles Test Claim
Welfare and Institutions Code Subsections 8103(f) and 8103(g) as Added and
Amended by Chapter 9, Statutes of 1990, Chapter 177, Statutes of 1990 Chapter
955, Statutes of 1991, Chapter 1326, Statutes of 1992, Chapter 610, Statutes of 1993,
Chapter 611, Statutes of 1993, Chapter 224, Statutes of 1994, Chapter 1075, Statutes
of 1996, Chapter 578, Statutes of 1999
Firearm Hearings for Discharged Inpatients**

Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, SB90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analyses, and for proposing parameters and guidelines (Ps&Gs) and amendments thereto, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject test claim.

Specifically, I declare that I have examined the County's State mandated duties and resulting costs, in implementing the subject law, and find that such costs as set forth in the subject test claim, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

6/21/00, Los Angeles, CA
Date and Place

Leonard Kaye
Signature

act is declaratory of existing law and that the words "Section 3" as used in Section 5, as evidenced by Senate Bill 190, as amended September 6, 1989, were intended to include all the provisions in Chapter 3 (commencing with Section 94300) of Part 59 of the Education Code, but excluding the then proposed provisions in Article 2.5 (commencing with Section 94316) of Chapter 3 of Part 59 of the Education Code subsequently, enacted pursuant to the provisions of Assembly Bill 1402 (Chapter 1239 of the Statutes of 1989).

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to require the State Board of Education and the Superintendent of Public Instruction to make data available for use in the development of a state master plan for educational technology pursuant to Section 51876 of the Education Code, and in order to require the superintendent, with the advice of the Educational Technology Committee, to evaluate the effectiveness of educational technology programs in assisting local educational agencies to implement educational technology at the earliest possible time pursuant to subdivision (d) of Section 51876.5 of the Education Code, it is necessary that this act take effect immediately.

CHAPTER 9

An act to amend Sections 11106, 12001, 12021, 12070, 12071, 12072, 12073, 12076, 12077, 12078, and 12082 of, to amend the heading of Article 4 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4 of, to add Section 12083 to, to repeal Chapter 3 (commencing with Section 12350) of Title 2 of Part 4 of, and to repeal Article 2 (commencing with Section 12560) of Chapter 6 of Title 2 of Part 4 of, the Penal Code, and to amend Sections 8100 and 8103 of, the Welfare and Institutions Code, relating to firearms.

[Approved by Governor March 3, 1990. Filed with Secretary of State March 5, 1990.]

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

SECTION 1. Section 11106 of the Penal Code is amended to read: 11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry concealed weapons, dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper

application there: 11105, hard copy photostatic, and r.

(b) Notwithsta not retain or com for firearms that a of being concealed of sales for firearr capable of being within 30 days of purchaser or trans

A violation of t

SEC. 1.5. Sect

12001. (a) As

and "firearm cap apply to and inclu from which is exp other form of corr in length. These t inches or more in a barrel less than

(b) As used in t to be used as a w projectile by the f

(c) As used in 12073 of this code Institutions Code, of any such weap

(d) For the p "firearm" shall als launcher or simila material whether distress signaling p

(e) For purpos (c), and (d) of Se an unloaded firea Section 921(a) (16 or relic, as defined Regulations.

(f) Nothing sh "revolver," or "fir from also being short-barreled rifl

SEC. 2. Section

12021. (a) Any

the laws of the Un state, governmen Section 12001.6, or who owns or has i

application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within 30 days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm.

A violation of this subdivision is a misdemeanor.

SEC. 1.5. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this chapter, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device, designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this chapter, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, and 12073 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031 the term "firearm" shall also include any rocket, rocket propelled projectile launcher or similar device containing any explosive or incendiary material whether or not such device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code or a curio, or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

SEC. 2. Section 12021 of the Penal Code is amended to read:

12021. (a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody

or control any firearm is guilty of a felony.

(b) Notwithstanding the provisions of subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when such conviction results from certification by the juvenile court for prosecution as an adult in an adult court under the provisions of Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) Except as provided in subdivision (a), any person who has been convicted of a misdemeanor violation of Section 136.5, 140, 171b, 171c, 171d, 241, 243, 244.5, 245, 245.5, 246.3, 247, 417, 417.2, 626.9, subdivision (b) or (d) of Section 12034, subdivision (a) of Section 12100, 12320, or 12590 and who within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in the county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment. The court shall, on forms prescribed by the Department of Justice, notify the department of persons subject to this subdivision.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in the county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment. The court shall, on forms provided by the Department of Justice, notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, (2) is found to be a fit and proper subject to be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in the state prison or in the county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment. The juvenile court shall, on forms prescribed by the Department of Justice, notify the department of persons subject to this subdivision. Notwithstanding any other provision of law, the forms required to be submitted to the

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department pursuant to eligibility to acquire

(f) Subdivision (convicted of a felon

(1) Conviction o result in imposition

(2) The defendar for more than 30 da dollars (\$1,000), or

SEC. 3. The headi of Chapter 1 of Title

Arti

SEC. 4. Section 12070. (a) No f leasing, transferring or transfer of firea pursuant to Section of a misdemeanor.

(b) As used in t leasing, or transfer following:

(1) The sale, lea pursuant to a cou Judgments Law (Ti 2 of the Code of Ci personal firearm cc

(2) The sale, lea pursuant to subdivi

(3) The sale, leas title to the firearm the person disposes firearm.

(4) The infreques sale, lease, or trans firearms.

(c) As used in th

(1) For pistols, 1 concealed upon the year. For this purp transfer of any num of being concealed

(2) For firearms capable of being co regularly.

SEC. 5. Section 1 12071. (a) The county, or city and

department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless:

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

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

SEC. 3. The heading of Article 4 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code is amended to read:

Article 4. Licenses to Sell Firearms

SEC. 4. Section 12070 of the Penal Code is amended to read:

12070. (a) No person shall engage in the business of selling, leasing, transferring, advertising, offering, or exposing for sale, lease, or transfer of firearms unless he or she has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor.

(b) As used in this article, engaging in the business of selling, leasing, or transferring of firearms does not include any of the following:

(1) The sale, lease, or transfer of any firearm by a person acting pursuant to a court order or pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure), or by a person who liquidates a personal firearm collection to satisfy a court judgment.

(2) The sale, lease, or transfer of firearms by a person acting pursuant to subdivision (c) of Section 12028.

(3) The sale, lease, or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest, provided the person disposes of the firearm within 60 days of receipt of the firearm.

(4) The infrequent sale, lease, or transfer, offering, exposing for sale, lease, or transfer, or advertising for sale, lease, or transfer of firearms.

(c) As used in this section, "infrequent" means:

(1) For pistols, revolvers, and other firearms capable of being concealed upon the person, less than six transactions per calendar year. For this purpose, "transaction" means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, occasional and without regularity.

SEC. 5. Section 12071 of the Penal Code is amended to read:

12071. (a) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may

grant, licenses permitting the licensee to sell at retail within the city, county, or city and county, any firearms. If a license is granted, it shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue, and shall be subject to the following conditions, for breach of any of which the license shall be subject to forfeiture:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice pursuant to the procedure set forth in this subparagraph.

The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to subdivision (a) upon demonstration by the person that he or she currently possesses a valid license. The department shall adopt regulations to implement this license program.

The full costs incurred by the department in administering this program shall be recovered by fees assessed persons who apply for statewide gun show licenses.

All persons who receive statewide gun show licenses shall publicly display the license at any gun show at which the licensee conducts business as authorized by this subparagraph.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days

of the submission to subdivision (d) of S

(B) Unless unloaded in a locked container.

(C) Unless the person is present to the dealer or present to the dealer.

(D) Whenever that the person is in 12021.1 of this code, Institutions Code.

(4) No pistol, revolver, or other firearm shall be concealed upon the person advertising the sale of any part of the product outside.

(5) The licensee shall promptly in process 12082.

(6) The licensee shall comply with subdivisions (a) and (b).

(b) As used in this section, "age" includes, but is not limited to, a license, a state identification card, an employer's signature and photograph, and provides the seller's name and address to the purchaser.

SEC. 5.1. Section 12071. (a) The department shall grant licenses, permits, or other licenses, upon the person. It shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue.

(b) A license is subject to the following prohibitions:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice pursuant to the procedure set forth in this subparagraph.

of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm capable of being concealed upon the person or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(b) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

SEC. 5.1. Section 12071 of the Penal Code is amended to read:
12071. (a) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant licenses, permitting the licensee to sell at retail within the city, county, or city and county, any firearms capable of being concealed upon the person. If a license is granted, it shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice pursuant to the procedure set forth in this subparagraph.

The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to subdivision (a) upon demonstration by the person that he or she currently possesses a valid license. The department shall adopt regulations to implement this license program.

The full costs incurred by the department in administering this program shall be recovered by fees assessed persons who apply for statewide gun show licenses.

All persons who receive statewide gun show licenses shall publicly display the license at any gun show at which the licensee conducts business as authorized by this subparagraph.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless, in the case of a pistol, revolver, or other firearm capable of being concealed upon the person, the purchaser or transferee presents to the dealer a validated firearm safety certificate.

(C) Unless unloaded and securely wrapped or unloaded and in a locked container.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol or revolver, or other firearm capable of being concealed upon the person, or imitation thereof, or placard

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advertising the sale of any part of the product outside.

(5) The licensee shall promptly process the

(6) The licensee shall process subdivisions (a) and

(c) As used in this section and age" includes, but not limited to, a license, a state identification card, an employment signature and photograph provides the seller and purchaser.

(d) As used in this section means a validated purchaser or transferee pursuant to Article 5.2 of the

SEC. 5.2. Section 12071. (a) The county, or city and county, or city and county, or city and county upon the person. The regulations prescribed by the department shall be in effect for a period of one year from the date of the conditions, for breach of which the license shall be forfeited.

(1) (A) Except as otherwise provided, a handgun shall be carried on the person.

(B) A person is prohibited from the purposes of completion of a firearm and communication delivery, or transfer of a firearm in paragraph (b) of this section. Regulations, or other rules, shall be conducted from an individual who has obtained a statewide license pursuant to this section.

The Department of Justice shall issue a license to all persons licensed pursuant to subdivision (a) upon demonstration by the person that he or she currently possesses a valid license. The department shall adopt regulations to implement this license program.

The full costs incurred by the department in administering this program shall be recovered by fees assessed persons who apply for statewide gun show licenses.

All persons who receive statewide gun show licenses shall publicly display the license at any gun show at which the licensee conducts business as authorized by this subparagraph.

advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly process transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(d) As used in this article, "a validated firearm safety certificate" means a validated basic firearm safety certificate issued to the purchaser or transferee by the Department of Fish and Game pursuant to Article 7 (commencing with Section 1230) of Chapter 3 of Division 2 of the Fish and Game Code.

SEC. 5.2. Section 12071 of the Penal Code is amended to read:
12071. (a) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant licenses, permitting the licensee to sell at retail within the city, county, or city and county, any firearms capable of being concealed upon the person. If a license is granted, it shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue, and shall be subject to the following conditions, for breach of any of which the license shall be subject to forfeiture.

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice pursuant to the procedure set forth in this subparagraph.

The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to subdivision (a) upon demonstration by the person that he or she currently possesses a valid license. The department shall adopt regulations to implement this license program.

The full costs incurred by the department in administering this program shall be recovered by fees assessed persons who apply for statewide gun show licenses.

All persons who receive statewide gun show licenses shall publicly

display the license at any gun show at which the licensee conducts business as authorized by this subparagraph.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) If it is a pistol, revolver, or other firearm capable of being concealed upon the person, and it is capable of being equipped with a trigger-locking device, unless it is equipped with a locking device.

(C) Unless unloaded and securely wrapped or unloaded and in a locked container.

(D) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(E) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol or revolver, or other firearm capable of being concealed upon the person, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(b) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle

operator's license, identification card, contains the bearer's documentation which identity and age of

(2) As used in this which prevents the encloses and blocks combination lock, or when applied to the

SEC. 5.3. Section 12071. (a) The county, or city and grant licenses, permit county, or city and upon the person. I prescribed by the A year from the date

(b) A license is following prohibition

(1) (A) Except shall be carried on

(B) A person license purposes of comply firearm and comm delivery, or transfer in paragraph (b) of Regulations, or its conducted from any obtained a statewide Justice pursuant to

The Department to all persons license demonstration by t valid license. The d this license program

The full costs inc program shall be re statewide gun show

All persons who r display the license : business as authoriz

(2) The license authority, shall be c seen.

(3) No firearm sh

(A) Prior to Janu the purchase, or, subdivision (c) of S

operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "trigger-locking device" means a device which prevents the firearm from functioning, and which fully encloses and blocks the trigger and is locked by a padlock, key lock, combination lock, or similar locking device, is reusable, and which, when applied to the weapon, renders the weapon inoperable.

SEC. 5.3. Section 12071 of the Penal Code is amended to read:
12071. (a) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant licenses, permitting the licensee to sell at retail within the city, county, or city and county, any firearms capable of being concealed upon the person. If a license is granted, it shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraph (B), the business shall be carried on only in the building designated in the license.

(B) A person licensed pursuant to subdivision (a) may, for purposes of complying with Section 12082, take possession of the firearm and commence preparation of the register for the sale, delivery, or transfer of firearms at a gun show or event, as defined in paragraph (b) of Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle and the licensee has obtained a statewide gun show license from the Department of Justice pursuant to the procedure set forth in this subparagraph.

The Department of Justice shall issue a statewide gun show license to all persons licensed pursuant to subdivision (a) upon demonstration by the person that he or she currently possesses a valid license. The department shall adopt regulations to implement this license program.

The full costs incurred by the department in administering this program shall be recovered by fees assessed persons who apply for statewide gun show licenses.

All persons who receive statewide gun show licenses shall publicly display the license at any gun show at which the licensee conducts business as authorized by this subparagraph.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to

the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless, in the case of a pistol, revolver, or other firearm capable of being concealed upon the person, the purchaser or transferee presents to the dealer a validated firearm safety certificate.

(C) If it is a pistol, revolver, or other firearm capable of being concealed upon the person and it is capable of being equipped with a trigger-locking device, unless it is equipped with a locking device.

(D) Unless unloaded and securely wrapped or unloaded and in a locked container.

(E) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(F) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol or revolver, or other firearm capable of being concealed upon the person, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly process transfers of pistols, revolvers, and other firearms capable of being concealed upon the person pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(c) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the

purchaser.

(d) As used in this means a validated purchaser or transferee pursuant to Article 7 of Division 2 of the

(e) As used in this which prevents the encloses and blocks t combination lock, or when applied to the

SEC. 6. Section 1 12072. (a) (1) A knowingly supply, se to any person within or 12021.1 of this co Institutions Code sh prison, or in a county a fine of not exceeding fine and imprisonment

(2) No person, c otherwise transfer a cause to believe to be 12021 or 12021.1 of t and Institutions Cod

(b) No person lice transfer any pistol, r upon the person to a firearm to a person

(c) No dealer lice acting pursuant to purchaser or transfe

(1) Prior to Janua the purchase, or, a subdivision (c) of Se the department of cc of the submission to

subdivision (d) of S January 1, 1996, with a pistol, revolver, or the person, or, aft subdivision (c) of Se the department of cc of the submission to

subdivision (d) of S January 1, 1996, with any other firearm, c subdivision (c) of Se the department of cc

the department of cc

purchaser.

(d) As used in this article, "a validated firearm safety certificate" means a validated basic firearm safety certificate issued to the purchaser or transferee by the Department of Fish and Game pursuant to Article 7 (commencing with Section 1230) of Chapter 3 of Division 2 of the Fish and Game Code.

(e) As used in this article, "trigger-locking device" means a device which prevents the firearm from functioning, and which fully encloses and blocks the trigger and is locked by a padlock, key lock, combination lock, or similar locking device, is reusable, and which, when applied to the weapon, renders the weapon inoperable.

SEC. 6. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the prohibited classes by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days

of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through a licensed dealer pursuant to Section 12082.

(e) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 6.1. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the prohibited classes by Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer, who is licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of

a pistol, revolver, or the person, or, after subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, with any other firearm or subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) If the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(5) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through a licensed dealer pursuant to Section 12082.

(e) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 7. Section 12073.

(a) Every person who knowingly transfers or otherwise transfers a firearm to any person under the age of 21 years or any other firearm to a person under the age of 18 years, or who knowingly transfers or otherwise transfers a firearm to any person whom he or she has cause to believe to be within any of the prohibited classes by Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code, shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(b) This section shall not apply to the sale of a firearm in the regular course of business between a licensed dealer and a purchaser, or to the sale of a firearm to another person under the age of 21 years or any other firearm to a person under the age of 18 years, or to the sale of a firearm to any person whom he or she has cause to believe to be within any of the prohibited classes by Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code, where the sale is made in the regular course of business between a licensed dealer and a purchaser, or to the sale of a firearm to another person under the age of 21 years or any other firearm to a person under the age of 18 years, or to the sale of a firearm to any person whom he or she has cause to believe to be within any of the prohibited classes by Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code, where the sale is made in the regular course of business between a licensed dealer and a purchaser.

SEC. 8. Section 12076.

(a) The purchaser or transferee shall present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) If the purchaser or transferee of a pistol, revolver, or other firearm capable of being concealed upon the person does not present to the dealer a validated firearm safety certificate.

(3) Unless the firearm is unloaded and securely wrapped or unloaded and in a locked container.

(4) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(5) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through a licensed dealer pursuant to Section 12082.

(e) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

SEC. 7. Section 12073 of the Penal Code is amended to read:

12073. (a) Every person in the business of selling, leasing or otherwise transferring a firearm, whether the seller, lessor, or transferor is a retail dealer, pawnbroker, or otherwise, except as provided by this chapter, shall keep a register in which shall be entered the information prescribed in Section 12077.

(b) This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transport of unloaded firearms as merchandise to other wholesale or retail dealers by mail, express or other mode of shipment, to points outside of the city or county wherein they are situated.

SEC. 8. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in

Section 12071, to the dealer, and the dealer shall require him or her to sign his or her legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date, or other information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice at Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within 30 days of receipt and no information shall be compiled therefrom.

(c) If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d) or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse both of the following:

(1) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

(2) Local mental health facilities for state-mandated local costs

resulting from the amendments to Section 12071 made by the act with

The fee established by the act shall be the sum of the actual cost of the act plus an estimated reasonable profit for the person complying with the act, which added paragraph shall be added to

SEC. 9. Section 12071. (a) The

the register described in this section shall be the register described in this section and the agency number of the firearm, model number, if applicable, serial number, and the number is stamped on the

firearm is new or used, the name of the purchaser, purchase price, address, if current, and the address of purchase.

birth (state or county), the purchaser's occupation, description, yes or no, including, but not limited to, Section 12021 or any other status as a mental patient, absence from a mental hospital, Welfare and Institutions Code, has been adjudicated guilty by reason of a crime, been found incompetent, conservatorship by the Department of Justice and Institutions Code, and the salesperson (as a witness) to the complete address of the dealer's license, the dealer's complete birth date, any person signing the register, an incorrect birth date, for the register is given.

(b) (1) The original register shall be retained in a book of 50 original copies of transactions that shall be maintained until the date of last transfer of any peace officer's license, the Attorney General, Tobacco, and Firearms

and the salesperson (as a witness) to the complete address of the dealer's license, the dealer's complete birth date, any person signing the register, an incorrect birth date, for the register is given.

(b) (1) The original register shall be retained in a book of 50 original copies of transactions that shall be maintained until the date of last transfer of any peace officer's license, the Attorney General, Tobacco, and Firearms

and the salesperson (as a witness) to the complete address of the dealer's license, the dealer's complete birth date, any person signing the register, an incorrect birth date, for the register is given.

(b) (1) The original register shall be retained in a book of 50 original copies of transactions that shall be maintained until the date of last transfer of any peace officer's license, the Attorney General, Tobacco, and Firearms

and the salesperson (as a witness) to the complete address of the dealer's license, the dealer's complete birth date, any person signing the register, an incorrect birth date, for the register is given.

resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department and the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) of this subdivision.

SEC. 9. Section 12077 of the Penal Code is amended to read:

12077. (a) The Department of Justice shall prescribe the form of the register described in Section 12074. Information contained in the register shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, purchaser's status as a mental patient, or whether purchaser is on leave of absence from a mental hospital pursuant to Section 8100 of the Welfare and Institutions Code, whether purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly affixing an incorrect birth date or other information required to be provided for the register is guilty of a misdemeanor.

(b) (1) The original of each dealer's record of sale of a firearm document shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General or agents of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper

identification.

(2) Dealers shall use ink to complete each document.

(3) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(4) Each original shall contain instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(5) One firearm transaction shall be reported on each record of sale document.

SEC. 10. Section 12078 of the Penal Code is amended to read:

12078. (a) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties, nor to deliveries, transfers, or sales of firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by those governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser is employed, identifying the purchaser as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase. The certification shall be delivered to the seller at the time of purchase and the purchaser shall identify himself or herself as the person authorized in the certification. On the day the sale, delivery, or transfer is made, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer and the firearm as is indicated in Section 12077.

(b) Section 12070 and subdivisions (c) and (d) of Section 12072 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in such business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) Subdivision (d) of Section 12072 shall not apply to infrequent transfers of firearms by gift or bequest or intestate succession by one individual to another where both individuals are members of the same immediate family.

As used in this subdivision, "immediate family member" includes the third lineal degree of consanguinity.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent and temporary loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for repair

provided the repair

(f) Subdivision (f) infrequent sale or transfer or other firearms transactions conducted by corporations or organizations

SEC. 11. Section 12082. A person

firearm through a

accordance with this

of subdivision (d) of

regulations under this

and the purchaser of

through a dealer, and

with the requirements

12076, and 12077 and

register shall state the

of the firearm in a

Section 12077. The seller

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then deliver the firearm

prohibited, in accordance

Section 12072. If the

purchaser or transferee

for the conclusion of

and 12072, return the

not in violation of this

cannot legally return

dealer shall forthwith

or the chief of police

of any city or city and

in the manner provided

or transferee may be

exceed the actual cost

amount of a fee which

pursuant to subdivision

ten dollars (\$10) to

A violation of this

SEC. 12. Section

12083. (a) The

feasibility study conducted

particularly as they relate

following:

1) Introduce a

utilize an 800 hotline

in order to contact

eligibility of a person

(2) Reduce the cost

period as the repair

provided the repair does not exceed three months in duration.

(f) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than pistols, revolvers, or other firearms capable of being concealed upon the person, at auctions conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

SEC. 11. Section 12082 of the Penal Code is amended to read:

12082. A person shall complete any sale or other transfer of a firearm through a dealer licensed pursuant to Section 12071 in accordance with this section in order to comply with the provisions of subdivision (d) of Section 12072. The Attorney General shall adopt regulations under this section to allow the seller or other transferor and the purchaser or transferee to complete a sale or other transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and of Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of records. The register shall state the name and address of the seller or transferor of the firearm in addition to any other information required by Section 12077. The seller or transferor shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee, if it is not prohibited, in accordance with the provisions of subdivision (c) of Section 12072. If the dealer cannot legally transfer the firearm to the purchaser or transferee, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller if to do so is not in violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee may be required by the dealer to pay a fee not to exceed the actual cost of processing the application, including the amount of a fee which the Department of Justice may charge pursuant to subdivision (d) of Section 12076 plus a fee not to exceed ten dollars (\$10) to the dealer for processing the transfer or sale.

A violation of this section by a dealer is a misdemeanor.

SEC. 12. Section 12083 is added to the Penal Code, to read:

12083. (a) The Department of Justice shall undertake a feasibility study concerning proposed changes in firearm statutes, particularly as they relate to this article, which would accomplish the following:

(1) Introduce a system whereby licensed firearm dealers may utilize an 800 hotline telephone number or a 976 telephone number in order to contact the Department of Justice to determine the eligibility of a person to purchase and possess a firearm.

(2) Reduce the current 15-day waiting period to a lesser waiting period as the result of the introduction of automation,

computerization, or other devices or means which have increased efficiency in screening the eligibility of persons to purchase and possess firearms.

(3) Establish a licensing procedure allowing individuals who possess particular kinds of identification and have certain personal historical background, including, for example, completion of a hunter safety course, to obtain a firearm without being subject to a background check for eligibility.

(4) If the federal government develops a system for immediate and accurate identification of felons, as described in Section 6213 of Public Law 100-690, establish a means for the Department of Justice to utilize that system.

(5) Implement a system whereby a firearm purchaser utilizes a record check similar to those checks utilized by private credit reporting agencies.

(6) Incorporate private entities into the background check process by the use of bonding requirements, employing private credit reporting procedures, and by adopting similar methods and procedures.

(7) Revise existing statutory licensing requirements in order that local licensing authorities implement essentially uniform licensing procedures under Section 12071.

(8) The Department of Justice shall provide the results of this feasibility study to the Legislature on or before July 1, 1991.

(b) The intent of this section is to encourage the rapid development and deployment of an alternative background check system by which it may be determined if prospective purchasers of all firearms are ineligible to purchase or possess a firearm. The full deployment of an alternative background check system is highly desirable and may greatly reduce, if not eliminate, the need for California to administer the existing background check system, as authorized by this article.

SEC. 13. Chapter 3 (commencing with Section 12350) of Title 2 of Part 4 of the Penal Code is repealed.

SEC. 14. Article 2 (commencing with Section 12560) of Chapter 6 of Title 2 of Part 4 of the Penal Code is repealed.

SEC. 15. Section 8100 of the Welfare and Institutions Code is amended to read:

8100. No person described in Section 8103 or who is a mental patient in any hospital or institution or on leave of absence from any hospital or institution shall own or have in his or her possession or under his or her custody or control, or purchase or receive or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon.

"Deadly weapon," as used in this section and Sections 8101, 8102 and 8103 means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

A violation of this section shall be a public offense punishable by imprisonment in the state prison, or in the county jail for not more

than one year or by a fine of not more than (\$1,000), or by both.

SEC. 16. Section 8103 is amended to read:

8103. (a) (1) No person who has been adjudicated by a court of mental disorder or who has been determined to be a mentally disordered person shall attempt to purchase, receive, or possess a firearm in custody, or control of a firearm, if there has been an order of adjudication upon receipt of which the person may be confined without endangering the public safety or the issuance of the certificate of eligibility to be a danger to others.

(2) The court shall, upon the filing of the court order for the issuance of a certificate of eligibility, amend paragraph (1). The court shall not issue any certificate of eligibility.

(b) (1) No person who is a defendant in the Penal Code or not guilty by reason of insanity under Section 207 or 209 of the Penal Code or who has intentionally inflicted great bodily injury on a victim suffers great bodily injury under the Penal Code, or under the Vehicle Code, or under paragraph (2) or (3) of Section 26200 of the Penal Code in the commission of a murder, a violation of Section 26200, or a violation of Section 12303.2, 12303.3, 12303.4, or 12303.5 of the Penal Code involving a felony involving death or a serious threat of bodily injury, shall purchase or receive, or possess in his or her possession a firearm or any other deadly weapon.

(2) The court shall, upon the filing of the court order for the issuance of a certificate of eligibility, amend paragraph (1).

(c) (1) No person who is a defendant in the Penal Code or not guilty by reason of insanity as described in subdivision (b) shall purchase or receive, or possess in his or her possession or control any firearm.

(2) The court shall, upon the filing of the court order for the issuance of a certificate of eligibility, amend paragraph (1).

(3) (1) No person who is a defendant in the Penal Code or not guilty by reason of insanity as described in subdivision (b) shall purchase or receive, or possess in his or her possession or control any firearm.

(2) The court shall, upon the filing of the court order for the issuance of a certificate of eligibility, amend paragraph (1).

(3) (1) No person who is a defendant in the Penal Code or not guilty by reason of insanity as described in subdivision (b) shall purchase or receive, or possess in his or her possession or control any firearm.

(2) The court shall, upon the filing of the court order for the issuance of a certificate of eligibility, amend paragraph (1).

(3) (1) No person who is a defendant in the Penal Code or not guilty by reason of insanity as described in subdivision (b) shall purchase or receive, or possess in his or her possession or control any firearm.

(2) The court shall, upon the filing of the court order for the issuance of a certificate of eligibility, amend paragraph (1).

(3) (1) No person who is a defendant in the Penal Code or not guilty by reason of insanity as described in subdivision (b) shall purchase or receive, or possess in his or her possession or control any firearm.

(2) The court shall, upon the filing of the court order for the issuance of a certificate of eligibility, amend paragraph (1).

than one year or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

SEC. 16. Section 8103 of the Welfare and Institutions Code is amended to read:

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

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

(c) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless the court

of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

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

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

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

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

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

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the department, and shall

be used only to determine or other deadly weapons such information for all. All such information received by the Department of Justice shall be used only for conservatorship as to the

(f) (1) No person provided in Section 5151, 5152, 5153, 5154, 5155, 5156, 5157, 5158, 5159, 5160, 5161, 5162, 5163, 5164, 5165, 5166, 5167, 5168, 5169, 5170, 5171, 5172, 5173, 5174, 5175, 5176, 5177, 5178, 5179, 5180, 5181, 5182, 5183, 5184, 5185, 5186, 5187, 5188, 5189, 5190, 5191, 5192, 5193, 5194, 5195, 5196, 5197, 5198, 5199, 5200, 5201, 5202, 5203, 5204, 5205, 5206, 5207, 5208, 5209, 5210, 5211, 5212, 5213, 5214, 5215, 5216, 5217, 5218, 5219, 5220, 5221, 5222, 5223, 5224, 5225, 5226, 5227, 5228, 5229, 5230, 5231, 5232, 5233, 5234, 5235, 5236, 5237, 5238, 5239, 5240, 5241, 5242, 5243, 5244, 5245, 5246, 5247, 5248, 5249, 5250, 5251, 5252, 5253, 5254, 5255, 5256, 5257, 5258, 5259, 5260, 5261, 5262, 5263, 5264, 5265, 5266, 5267, 5268, 5269, 5270, 5271, 5272, 5273, 5274, 5275, 5276, 5277, 5278, 5279, 5280, 5281, 5282, 5283, 5284, 5285, 5286, 5287, 5288, 5289, 5290, 5291, 5292, 5293, 5294, 5295, 5296, 5297, 5298, 5299, 5300, 5301, 5302, 5303, 5304, 5305, 5306, 5307, 5308, 5309, 5310, 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6639, 6640, 6641, 6642, 6643, 6644, 6645, 6646, 6647, 6648, 6649, 6650, 6651, 6652, 6653, 6654, 6655, 6656, 6657, 6658, 6659, 6660, 6661, 6662, 6663, 6664, 6665, 6666, 6667, 6668, 6669, 6670, 6671, 6672, 6673, 6674, 6675, 6676, 6677, 6678, 6679, 6680, 6681, 6682, 6683, 6684, 6685, 6686, 6687, 6688, 6689, 6690, 6691, 6692, 6693, 6694, 6695, 6696, 6697, 6698, 6699, 6700, 6701, 6702, 6703, 6704, 6705, 6706, 6707, 6708, 6709, 6710, 6711, 6712, 6713, 6714, 6715, 6716, 6717, 6718, 6719, 6720, 6721, 6722, 6723, 6724, 6725, 6726, 6727, 6728, 6729, 6730, 6731, 6732, 6733, 6734, 6735, 6736, 6737, 6738, 6739, 6740, 6741, 6742, 6743, 6744, 6745, 6746, 6747, 6748, 6749, 6750, 6751, 6752, 6753, 6754, 6755, 6756, 6757, 6758, 6759, 6760, 6761, 6762, 6763, 6764, 6765, 6766, 6767, 6768, 6769, 6770, 6771, 6772, 6773, 6774, 6775, 6776, 6777, 6778, 6779, 6780, 6781, 6782, 6783, 6784, 6785, 6786, 6787, 6788, 6789, 6790, 6791, 6792, 6793, 6794, 6795, 6796, 6797, 6798, 6799, 6800, 6801, 6802, 6803, 6804, 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be used only to determine eligibility to purchase or possess firearms or other deadly weapons. Any person who knowingly furnishes any such information for any other purpose is guilty of a misdemeanor. All such information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. Notwithstanding the preceding sentence, no person described in that sentence shall be ineligible to own, possess, control, receive, or purchase any firearm if, prior to being released, the person is declared by the facility to be a person who is likely to use firearms in a safe and lawful manner.

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

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm. The state summary criminal history may state that the person is prohibited from owning, possessing, controlling, receiving, or purchasing a firearm under this subdivision or any other provision of law.

(3) Upon admission of a person subject to this subdivision, the facility shall inform the person that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in

which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8103 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material, relevant and reliable evidence which is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

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

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

(3) Upon certification for intensive treatment, the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) Any person who is subject to the prohibition contained in paragraph (1), may fully invoke the provisions of paragraph (4) of subdivision (f).

(h) Every person who possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code

(i) "Deadly weapon prescribed by Section SEC. 17. If any person or circumstance affect other provisions effect without the inv provisions of this act

SEC. 18. (a) Section Section 12071 of the 1680. It shall only become effective January of the Penal Code, and not amend that section which case Sections operative.

(b) Section 5.2 of 12071 of the Penal Code only become operative effective January 1, 1990, Penal Code, (3) AB 10 that section, and (4)

Sections 5, 5.1, and 5

(c) Section 5.3 of 12071 of the Penal Code it shall only become effective January 1, 1990, 12071 of the Penal Code 861, in which case Section operative.

SEC. 19. Section Section 12072 of the 1680. It shall only become effective on 12072 of the Penal Code in which case Section

SEC. 20. No reimbursement Section 6 of Article 2 costs which may be because this act creates definition of a crime or infraction, or eliminates

However, notwithstanding Code, if the Commission contains other costs of agencies and school code to Part 7 (commencing of the Government Code Account of the General Notwithstanding Section

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

SEC. 17. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 18. (a) Section 5.1 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 1680. It shall only become operative if (1) both bills are enacted and become effective January 1, 1991, (2) each bill amends Section 12071 of the Penal Code, and (3) SB 861 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1680, in which case Sections 5, 5.2, and 5.3 of this bill shall not become operative.

(b) Section 5.2 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and SB 861. It shall only become operative if (1) both bills are enacted and become effective January 1, 1991, (2) each bill amends Section 12071 of the Penal Code, (3) AB 1680 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 861 in which case Sections 5, 5.1, and 5.3 of this bill shall not become operative.

(c) Section 5.3 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 1680, and SB 861. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1991, (2) all three bills amend Section 12071 of the Penal Code, (3) this bill is enacted after AB 1680 and SB 861, in which case Sections 5, 5.1, and 5.2 of this bill shall not become operative.

SEC. 19. Section 6.1 of this bill incorporates amendments to Section 12072 of the Penal Code proposed by both this bill and AB 1680. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 12072 of the Penal Code, and (3) this bill is enacted after AB 1680, in which case Section 6 of this bill shall not become operative.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code from the Dealers' Record of Sale Special Account of the General Fund.

Notwithstanding Section 17580 of the Government Code, unless

CHAPTER 177

An act to amend Sections 11106, 12076, 12077, 12078, 12280, 12285, and 12290 of the Penal Code, to amend Section 8103 of the Welfare and Institutions Code, and to amend Section 2 of Chapter 1180 of the Statutes of 1988, relating to firearms, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 26, 1990. Filed with
Secretary of State June 27, 1990.]

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

SECTION 1. Section 11106 of the Penal Code, as amended by Chapter 9 of the Statutes of 1990, is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry concealed weapons, dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm.

A violation of this subdivision is a misdemeanor.

SEC. 2. Section 12076 of the Penal Code, as amended by Chapter 9 of the Statutes of 1990, is amended to read:

12076. (a) The purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date, or other information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly

addressed to the Department of Justice at Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse both of the following:

(1) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department and the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) of this subdivision.

SEC. 3. Section 12077 of the Penal Code, as amended by Chapter 9 of the Statutes of 1990, is amended to read:

12077. (a) (1) The Department of Justice shall prescribe the

form of the register described in Section 12074. There shall be two forms of the register with the format set forth in paragraph (2) of this subdivision for pistols, revolvers, and other firearms capable of being concealed upon the person and the format set forth in paragraph (3) of this subdivision for all firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For pistols, revolvers, and other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, purchaser's status as a mental patient, or whether purchaser is on leave of absence from a mental hospital pursuant to Section 8100 of the Welfare and Institutions Code, whether purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly affixing an incorrect birth date or other information required to be provided for the register is guilty of a misdemeanor.

(3) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a

felony as described in Section 12021 or an offense described in Section 12021.1, purchaser's status as a mental patient, or whether purchaser is on leave of absence from a mental hospital pursuant to Section 8100 of the Welfare and Institutions Code, whether purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly affixing an incorrect birth date or other information required to be provided for the register is guilty of a misdemeanor.

(b) (1) The original of each dealer's record of sale of a firearm document shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General or agents of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification.

(2) Dealers shall use ink to complete each document.

(3) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(4) Each original shall contain instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(5) One firearm transaction shall be reported on each record of sale document.

SEC. 4. Section 12078 of the Penal Code, as amended by Chapter 9 of the Statutes of 1990, is amended to read:

12078. (a) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties, nor to deliveries, transfers, or sales of firearms made to authorized representatives of cities, counties, and counties, counties, state or federal governments for use by those governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser is employed, identifying the purchaser as a peace officer who is authorized to carry firearms while in the performance of his

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or her duties, and authorizing the purchase. The certification shall be delivered to the seller at the time of purchase and the purchaser shall identify himself or herself as the person authorized in the certification. On the day the sale, delivery, or transfer is made, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer and the firearm as is indicated in Section 12077.

(b) Section 12070 and subdivisions (c) and (d) of Section 12072 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in such business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) Subdivision (d) of Section 12072 shall not apply to infrequent transfers of firearms by gift, bequest, intestate succession, or other means by one individual to another where both individuals are members of the same immediate family.

As used in this subdivision, "immediate family member" includes the third lineal degree of consanguinity.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent and temporary loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for repair.

(f) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than pistols, revolvers, or other firearms capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

SEC. 5. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who within this state manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in the county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to a declaration issued pursuant to Section 12276.5 declaring that firearm to be an assault weapon, and has since either registered

the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars (\$500), but not less than three hundred fifty dollars (\$350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) do not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, the Department of Corrections, the California Highway Patrol, the California State Police, district attorneys' offices, or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivision (b) does not apply to the possession of an assault weapon by any person during the 1990 calendar year if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon by January 1, 1991.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989.

(3) The person is otherwise in compliance with this chapter.

SEC. 6. Section 12285 of the Penal Code is amended to read:

12285. (a) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, with the Department of Justice pursuant to those procedures which the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information as the department may deem appropriate. The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(b) No assault weapon possessed pursuant to this section may be

sold or transferred on or after January 1, 1990, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who (1) obtains title to an assault weapon registered under this section by bequest or intestate succession, (2) moves into the state in lawful possession of an assault weapon, or (3) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5, shall, within 90 days, either render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state. A person who lawfully possessed a firearm which was subsequently declared to be an assault weapon pursuant to Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of Section 12276.5.

(c) A person who has registered an assault weapon under this section may possess it only under the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

(1) At that person's residence, place of business, or other property owned by that person, or on property owned by another with the owner's express permission.

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(3) While on a target range which holds a regulatory or business license for the purpose of practicing shooting at that target range.

(4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.

(5) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(6) While transporting the assault weapon between any of the places mentioned in this subdivision, or to any licensed gun dealer, as defined in subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision (b) of Section 12290, if the assault weapon is transported as required by Section 12026.1.

(d) No person who is under the age of 18 years, no person who is prohibited from possessing a firearm by Section 12021 or 12021.1 of this code, and no person described in Section 8100 or 8103 of the Welfare and Institutions Code may register or possess an assault weapon.

(e) The department's registration procedures shall provide the option of joint registration for assault weapons owned by family members residing in the same household.

SEC. 7. Section 12290 of the Penal Code is amended to read:

12290. (a) Any licensed gun dealer, as defined in subdivision (c),

who lawfully possesses an assault weapon pursuant to Section 12285, in addition to the uses allowed in Section 12285, may transport the weapon between dealers or out of the state, display it at any gun show licensed by a state or local governmental entity, sell it to a resident outside the state, or sell it to a person who has been issued a permit pursuant to Section 12286. Any transporting allowed by this section must be done as required by Section 12026.1.

(b) (1) Any licensed gun dealer, as defined in subdivision (c), may take possession of any assault weapon for the purposes of servicing or repair from any person to whom it is legally registered or who has been issued a permit to possess it pursuant to this chapter.

(2) Any licensed gun dealer may transfer possession of any assault weapon received pursuant to paragraph (1), to any gunsmith in his or her employ or with whom he or she has contracted for gunsmithing services, for purposes of accomplishing servicing or repair. Transfers are permissible only to gunsmiths who hold a dealer's license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and regulations issued pursuant thereto, and who hold any business license required by a statute or local governmental entity.

(c) The term "licensed gun dealer," as used in this article means a person who has a federal firearms license, any business license required by a state or local governmental entity, and a seller's permit issued by the State Board of Equalization.

SEC. 8. Section 8103 of the Welfare and Institutions Code, as amended by Chapter 9 of the Statutes of 1990, is amended to read:

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

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635

of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

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

(e) (1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly

weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person the court shall notify the person of this prohibition.

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

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

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence may, however, own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if, at or prior to being released, the person is certified by the professional person in charge of the facility or his or her designee to be a person who is likely to use firearms in a safe and lawful manner or if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

(2) For each person subject to the provisions of this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the department, containing information which includes, but is not

limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm. The state summary criminal history may state that the person is prohibited from owning, possessing, controlling, receiving, or purchasing a firearm under this subdivision or any other provision of law.

(3) Upon admission of a person subject to this subdivision, the facility shall inform the person that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8103 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence which is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or

purchase any firearm for a period of five years.

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

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

(3) Upon certification for intensive treatment, the facility, shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) Any person who is subject to the prohibition contained in paragraph (1), may fully invoke the provisions of paragraph (4) of subdivision (f).

(h) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

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

SEC. 9. Section 2 of Chapter 1180 of the Statutes of 1988 is amended to read:

Sec. 2. The Legislature declares the following to be the public policy of this state:

(a) No person who buys or is transferred a firearm that was conducted through a person acting under Section 12082 of the Penal Code shall incur any civil liability for any illicit use or possession of the firearm prior to his or her taking possession of the firearm if the person had no knowledge of that conduct.

(b) No person holding a license under Section 12071 of the Penal Code when transferring firearms pursuant to Section 12082 of the Penal Code shall assume any civil liability beyond that existing at the time of the effective date of this section when the person sells or transfers any firearms out of his or her own stock, if that person otherwise complies with Section 12082 of the Penal Code. No person acting as a dealer pursuant to Section 12071 of the Penal Code who is transferring firearms for third parties pursuant to Section 12082 of the Penal Code and which firearms are not out of his or her own stock shall assume any civil liability for any defects in those firearms unless he or she has actual knowledge of the defect.

(c) No person who transfers a firearm through a dealer licensed

pursuant to Section 12071 of the Penal Code in accordance with Section 12082 of the Penal Code and otherwise complies with the provisions of Article 3 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code shall incur any civil liability for subsequent misuse of the firearm by the transferee of that firearm if he or she had no knowledge of the misuse prior to the transfer.

(d) The declarations contained in this section are declaratory of existing law.

SEC. 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 11. This act shall be known and may be cited as "The Prohibition Against Rifle and Shotgun Registration Act of 1990."

SEC. 12. Sections 1 to 4, inclusive, and Sections 8 and 9 of this act shall become operative on January 1, 1991.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to some confusion in the implementation of certain provisions of the Roberti-Roos Assault Weapons Control Act of 1989, it is essential that this act take effect immediately in order that those provisions may be clarified at the earliest possible time.

CHAPTER 178

An act to amend Section 7108.5 of the Business and Professions Code, relating to contractors.

[Approved by Governor June 26, 1990. Filed with
Secretary of State June 27, 1990.]

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

SECTION 1. Section 7108.5 of the Business and Professions Code is amended to read:

7108.5. A prime contractor or subcontractor shall pay to any subcontractor, not later than 10 days of receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, then the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 955

An act to amend Sections 12001, 12021, 12070, 12071, 12077, 12078, and 12082 of, and to add Section 12071.1 to, the Penal Code, and to amend Section 8103 of the Welfare and Institutions Code, relating to firearms.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this chapter, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device, designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this chapter, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, and 12073 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031 the term "firearm" shall also include any rocket, rocket propelled projectile launcher or similar device containing any explosive or incendiary material whether or not such device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique firearm" in Section 921 (a) (16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of

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(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

SEC. 1.1. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, and 12073 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Section 12551, the term "firearm" also shall include any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

SEC. 2. Section 12021 of the Penal Code is amended to read:

12021. (a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in

or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 136.5, 140, 171b, 171c, 171d, 241, 243, 244, 5, 245, 245.5, 246.3, 247, 417, 417.2, 626.9, subdivision (b) or (d) of Section 12034, subdivision (a) of Section 12100, 12320, or 12590 and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2).

(2) Any person, whose continued employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction prior to the effective date of the amendments which added this paragraph to this section, at any time until January 1, 1993, may petition the court for relief from this prohibition. The court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate. In making its decision, the court may consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature in enacting this paragraph to permit persons who were convicted of an offense specified in this subdivision prior to the effective date of the amendments which added this paragraph to this section to seek relief from the prohibition imposed by this subdivision.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not

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exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, (2) is found to be a fit and proper subject to be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

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

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

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

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a restraining order issued pursuant to subdivision (a) of Section 546 of the Code of Civil Procedure, or paragraph (2) of subdivision (a) of Section 547 of the Code of Civil Procedure, and predicated on paragraph (2), (3), or (6) of subdivision (a) of Section 4359 of the Civil Code, is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in subdivision (f) of Section 550 of the Code of Civil

infrequent transfers of firearms by gift, bequest, intestate succession, or other means by one individual to another where both individuals are members of the same immediate family.

As used in this subdivision, immediate family member includes the third lineal degree of consanguinity.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Section 12070 shall not apply to the sale, delivery, or transfer of firearms by manufacturers or importers licensed pursuant to Chapter 44 (commencing with Section 921) of Chapter 18 of the United States Code and the regulations issued pursuant thereto to dealers licensed pursuant to Section 12071.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term "infrequent" shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions of similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within 48 hours of the sale, delivery, or transfer, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in paragraph (3) of subdivision (a) of Section 12077.

(h) Section 12070 and subdivision (d) of Section 12072 shall not apply to the loan of a firearm for the purposes of shooting at targets if the loan occurs on the premises of a target facility which holds a

business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

SEC. 9. Section 12082 of the Penal Code, as amended by Chapter 5 of the Statutes of 1991, is amended to read:

12082. A person shall complete any sale or other transfer of a firearm through a dealer licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision (d) of Section 12072. The Attorney General shall adopt regulations under this section to allow the seller or transferor and the purchaser or transferee to complete a sale or other transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and of Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of records. The register shall state the name and address of the seller or transferor of the firearm in addition to any other information required by Section 12077. The seller or transferor shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee, if it is not prohibited, in accordance with the provisions of subdivision (c) of Section 12072. If the dealer cannot legally transfer the firearm to the purchaser or transferee, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller. The dealer shall not return the firearm to the seller or transferor when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee may be required by the dealer to pay a fee not to exceed ten dollars (\$10), plus the fee which the Department of Justice may charge pursuant to subdivision (d) of Section 12076. Nothing in these provisions shall prevent a dealer from charging a smaller fee. The fee that the department may charge is the fee that would be applicable pursuant to subdivision (d) of Section 12076, if the dealer was selling, transferring, or delivering a firearm to a purchaser or transferee without any other parties being involved in the transaction.

A violation of this section by a dealer is a misdemeanor.

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

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall purchase or receive, or

attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

(d) (1) No person found by a court to be mentally incompetent

to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

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

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

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

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

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself,

herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if, at or prior to being released, the person is certified by the professional person in charge of the facility or his or her designee to be a person who is likely to use firearms in a safe and lawful manner or if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

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

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm. The state summary criminal history may state that the person is prohibited from owning, possessing, controlling, receiving, or purchasing a firearm under this subdivision or any other provision of law.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8103 with the superior court. The

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reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence which is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

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

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

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

(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke the provisions of paragraph (4) of subdivision (f).

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

Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g).

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase

or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

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

SEC. 11. Section 1.1 of this bill incorporates amendments to Section 12001 of the Penal Code proposed by both this bill and AB 618. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12001 of the Penal Code, and (3) this bill is enacted after AB 618, in which case Section 1 of this bill shall not become operative.

SEC. 12. Section 3 of this bill incorporates amendments to Section 12021 of the Penal Code proposed by both this bill and AB 108. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1992, (2) each bill amends Section 12021 of the Penal Code, and (3) this bill is enacted after AB 108, in which case Section 12021 of the Penal Code, as amended by AB 108, shall remain operative only until the operative date of this bill, at which time Section 3 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 13. Section 4.1 of this bill incorporates amendments to Section 12070 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12070 of the Penal Code, and (3) this bill is enacted after AB 664, in which case Section 4 of this bill shall not become operative.

SEC. 14. (a) Section 5.1 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 618. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, (3) AB 2029 and SB 134 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 242, in which case Sections 5, 5.2, 5.3, 5.4, 5.5, 5.6, and 5.7 of this bill shall not become operative.

(b) Section 5.2 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and AB 2029. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, (3) AB 618 and SB 134 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2029, in which case Sections 5, 5.1, 5.3, 5.4, 5.5, 5.6, and 5.7 of this bill shall not become operative.

(c) Section 5.3 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by both this bill and SB 134. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12071 of the Penal Code, (3) AB 618 and AB 2029 are not enacted or as enacted

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do not amend that section, and (4) this bill is enacted after SB 134, in which case Sections 5, 5.1, 5.2, 5.4, 5.5, 5.6, and 5.7 of this bill shall not become operative.

(d) Section 5.4 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 2029 and SB 134. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) AB 618 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2029 and SB 134, in which case Sections 5, 5.1, 5.2, 5.3, 5.5, 5.6, and 5.7 of this bill shall not become operative.

(e) Section 5.5 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 618, and AB 2029. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) SB 134 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 618 and AB 2029, in which case Sections 5, 5.1, 5.2, 5.3, 5.4, 5.6, and 5.7 of this bill shall not become operative.

(f) Section 5.6 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 618, and SB 134. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1992, (2) all three bills amend Section 12071 of the Penal Code, (3) AB 2029 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 618 and SB 134, in which case Sections 5, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.7 of this bill shall not become operative.

(g) Section 5.7 of this bill incorporates amendments to Section 12071 of the Penal Code proposed by this bill, AB 618, AB 2029, and SB 134. It shall only become operative if (1) all four bills are enacted and become effective on January 1, 1992, (2) all four bills amend Section 12071 of the Penal Code, and (3) this bill is enacted after AB 618, AB 2029, and SB 134, in which case Sections 5, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this bill shall not become operative.

SEC. 15. Section 7.1 of this bill incorporates amendments to Section 12077 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12077 of the Penal Code, and (3) this bill is enacted after AB 664, in which case Section 7 of this bill shall not become operative.

SEC. 16. Section 8.1 of this bill incorporates amendments to Section 12078 of the Penal Code proposed by both this bill and AB 664. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1992, (2) each bill amends Section 12078 of the Penal Code, and (3) this bill is enacted after AB 664, in which case Section 8 of this bill shall not become operative.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district

will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 956

An act to amend Section 12071 of, and to add Section 12035 to, the Penal Code, relating to firearms.

[Approved by Governor October 13, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. This act shall be known, and may be cited, as the Children's Firearm Accident Prevention Act of 1991.

SEC. 2. Section 12035 is added to the Penal Code, to read:

12035. (a) As used in this section, the following definitions shall apply:

(1) "Locking device" means a device which temporarily prevents the firearm from functioning.

(2) "Loaded firearm" has the same meaning as set forth in subdivision (g) of Section 12031.

(3) "Child" means a person under 14 years of age.

(4) "Great bodily injury" has the same meaning as set forth in Section 12022.7.

(5) "Locked container" has the same meaning as set forth in subdivision (d) of Section 12026.2.

(b) (1) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the first degree" if he or she keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person.

(2) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the second degree" if he or she keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes injury, other than great bodily injury, to himself, herself, or any other person, or

or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

A violation of this subdivision is a misdemeanor.

SEC. 1.5. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry firearms issued pursuant to Section 12050, dealers' records of sales of firearms, reports provided pursuant to Section 12078, forms provided pursuant to Section 12084, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105, hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers,

or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

A violation of this subdivision is a misdemeanor.

SEC. 2. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, and 12078 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique firearm" in Section 921 (a) (16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Section 12551, the term "firearm" also shall

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include any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

(h) As used in this title, "wholesaler" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells or transfers or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071 and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of that purpose.

"Wholesaler" shall not include a manufacturer or importer or a gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other nonmetal parts of firearms.

(i) As used in Section 12071, 12072, or 12084, "application to purchase" means either of the following:

(1) The initial completion of the register by the purchaser or transferee as required by subdivision (a) of Section 12076.

(2) The initial completion of the LEFT by the purchaser or transferee as required by subdivision (d) of Section 12084.

SEC. 3. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to, or affect, any of the following:

(a) (1) (A) Any peace officer, listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this subdivision.

(B) Any officer retired after January 1, 1981, shall have an endorsement on the identification stating that the issuing agency approves the officer's carrying of a concealed firearm.

(C) No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D), except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is

Code, shall be admissible at the hearing under this paragraph. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court shall order that the person may have custody or control over, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the department shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

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

(e) "Deadly weapon," as used in this section and in Sections 8101, 8102, and 8103, means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

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

(g) A violation of subdivision (a) of, or paragraph (1) of subdivision (b) of, this section shall be a public offense, punishable by imprisonment in the state prison, or in a county jail for not more than one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

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

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

SEC. 17. Section 8103 of the Welfare and Institutions Code is amended to read:

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

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

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(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the

Department of Justice when it finds that the person has recovered his or her competence.

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

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

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

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use

firearms in a

(2) For each immediately, Department containing in identity of the was admitted

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(4) Any person superior court or she may or the time the person date and not district attorney respondent in district attorney motion, the situation which the person county in which person was examined notice of the reports d reports shall district attorney continuance of district attorney court. The director of the detention of a file that information be disclosed upon motion confidential information that would camera with that the public hearing in police reports material and

firearms in a safe and lawful manner.

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

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section

352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

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

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

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

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

(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke paragraph (4) of subdivision (f).

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

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

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

this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

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

SEC. 18. Section 8104 of the Welfare and Institutions Code is amended to read:

8104. The State Department of Mental Health shall maintain in a convenient central location and shall make available to the Department of Justice those records that the State Department of Mental Health has in its possession that are necessary to identify persons who come within Section 8100 or 8103. These records shall be made available to the Department of Justice upon request. The Department of Justice shall make these requests only with respect to its duties with regard to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives as defined in Section 12000 of the Health and Safety Code, devices defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code, short-barreled shotguns or short-barreled rifles as defined in Section 12020 of the Penal Code, assault weapons as defined in Section 12276 of the Penal Code, and destructive devices as defined in Section 12301 of the Penal Code, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person. These records shall not be furnished or made available to any person unless the department determines that disclosure of any information in the records is necessary to carry out its duties with respect to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives, destructive devices, devices as defined in Section 12001 of the Penal Code, short-barreled shotguns, short-barreled rifles, assault weapons, and machineguns, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person.

SEC. 19. Section 8105 of the Welfare and Institutions Code is amended to read:

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

(b) Upon request of the Department of Justice pursuant to subdivision (a), each public and private mental hospital, sanitarium, and institution shall submit to the department that information

which the department deems necessary to identify those persons who are within subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(c) A licensed psychotherapist shall immediately report to a local law enforcement agency the identity of a person subject to subdivision (b) of Section 8100. Upon receipt of the report, the local law enforcement agency, on a form prescribed by the Department of Justice, shall immediately notify the department of the person who is subject to subdivision (b) of Section 8100.

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

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

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

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

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

SEC. 20. It is the intent of the Legislature in enacting this act that to the extent practicable, the Department of Justice shall promulgate a uniform form that may be utilized pursuant to Section 12078 of the Penal Code.

SEC. 21. Section 1.5 of this bill incorporates amendments to Section 11106 of the Penal Code proposed by both this bill and AB 1180. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1993, (2) each bill amends Section 11106 of the Penal Code, and (3) this bill is enacted after AB 1180, in which case Section 1 of this bill shall not become operative.

SEC. 22. Section 3.5 of this bill incorporates amendments to Section 12027 of the Penal Code proposed by both this bill and AB 1180. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1993, (2) each bill amends Section 12027 of the Penal Code, and (3) this bill is enacted after AB 1180, in which case Section 3 of this bill shall not become operative.

SEC. 23. Section 8.5 of this bill incorporates amendments to Section 12076 of the Penal Code proposed by both this bill and SB 584. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1993, (2) each bill amends Section 12076 of the Penal Code, and (3) this bill is enacted after SB 584, in

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which case Section 8 of this bill shall not become operative.

SEC. 24. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for these costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1327

An act to add Sections 318 and 681.5 to the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 30, 1992. Filed with Secretary of State September 30, 1992.]

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

SECTION 1. Section 318 is added to the Welfare and Institutions Code, to read:

318. If a district attorney has represented a minor in a dependency proceeding, that district attorney shall not appear, on behalf of the people of the State of California, in any juvenile court hearing which is based upon a petition that alleges that the same minor is a person within the description of Section 602.

Records kept by the district attorney in the course of representation of a minor described in Section 300 are confidential and shall be held separately, and shall not be inspected by members of the district attorney's office not directly involved in the representation of that minor. A district attorney who represents or who has represented a minor in a proceeding brought pursuant to Section 300 shall not discuss the substance of that case with a district attorney representing the people pursuant to Section 681 in a proceeding brought pursuant to Section 602 in which that same minor is the subject of the petition.

SEC. 2. Section 681.5 is added to the Welfare and Institutions

CHAPTER 610

An act to amend Section 6254 of the Government Code, to amend Sections 27, 186.22, 189, 520, 653f, 653j, 666, 667.5, 667.7, 667.9, 786, 868.5, 999e, 1170.1, 1192.7, 1202.5, 1203, 1203.055, 1203.06, 1203.075, 1203.08, 1203.09, 1601, 3057, 11105.3, 12021.1, 12022, 12022.5, and 13853 of, and to add Sections 209.5 and 215 to, the Penal Code, and to amend Sections 676, 707, 4514, 5328.4, 6500, and 8103 of the Welfare and Institutions Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1993. Filed with Secretary of State October 1, 1993.]

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

SECTION 1. Section 6254 of the Government Code, as amended by Section 2 of Chapter 1128 of the Statutes of 1992, is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 36 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or

market or crop rep person.

(f) Records of records of intelligence office of the Attorney any state or local compiled by any investigatory or security agency for correct except that state and the names and addresses than confidential in property involved, diagrams, statements statements of all witnesses victims of an incident insurance carrier agent and any person sufficient as the result of the in larceny, robbery, ca defined by subdivision would endanger the the investigation, or completion of the in nothing in this division those investigative the investigating of

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(1) The full name individual arrested description including and weight, the time the location of the arrest, the amount location where the the individual is warrants from other

(2) Subject to the Penal Code, the time requests for assistance nature of the request information regarding incident investigation occurrence, the time

market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name, age, and

current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

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(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or

submitted pursuant to subdivision (f) or (g). However, a report shall not be filed for persons who are discharged within 31 days after the date of admission.

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

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

SEC. 34.5. Section 8103 of the Welfare and Institutions Code is amended to read:

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

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, premises invasion of the first degree, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act that poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have

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(c) (1) No person v of the Penal Code or tl not guilty by reason described in subdivisio purchase or receive, o or control any firearm of commitment has f pursuant to Section 10 state or the United St.

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(e) (1) No person a court, pursuant to S United States, becau mental disorder or in or receive, or attempt her possession, custo weapon while und conservatorship was the conservatorship deadly weapon by tl of the person or conservatorship, an weapon possession b this prohibition.

(2) The court sha of the court order prohibiting firearm

(g). However, a report shall be filed within 31 days after the

person has or has under his or her possession, or attempts to purchase any deadly weapon in violation of the law, or is punishable by imprisonment for not more than one year, as provided in Section 17 of the Penal

Code section, has the meaning as defined in the Penal Code and Institutions Code is

Section 1026.1, added October 1, 1955, has been amended to read: "A person who has been adjudicated to be a danger to others as a result of a mental disorder or mental illness, who has purchased or received, or attempts to purchase or receive, or has in his or her possession, custody, or control any deadly weapon unless a certificate by the court of commitment has found the person to have recovered sanity, or at a later date stating that the person has not, subsequent to the finding, been adjudicated by a court to be a person described in paragraph (1)."

Section 1026.2 of the Penal Code, state or the United States, or mayhem, a violation of which the victim suffers serious premises invasion of the premises in which the victim suffers great bodily injury, or 452 of the Penal Code, or Section 635 of the Vehicle Code, paragraph (2) or (3) of the Penal Code, a violation of the Penal Code, a violation of the Penal Code in the second degree, assault with intent to commit murder, Section 220 of the Penal Code in the first degree, a violation of Section 2310 of the Penal Code, or a violation of the Penal Code, or an act that poses a danger to a person, or a violation of the Penal Code that includes all the offenses defined under California law, or an attempt to purchase or receive, or have

in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

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

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

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the

person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

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

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

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

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the

superior court of his or she may own, possess, control, receive, or purchase any firearm at the time the petition is filed and notify the district attorney. The respondent in the petition shall be notified by the district attorney. Upon motion, the superior court shall order the county in which the person was evaluated to provide notice of the petition to the reports described in the reports shall be disclosed to the district attorney. The continuance of the petition shall be at the discretion of the district attorney. The district director of the petition shall be disclosed to the police reports, including material and relevant to the Evidentiary Code of this section. If the person is found to have received, possessed, or purchased a firearm, the court shall prohibit the person from owning, possessing, controlling, receiving, or purchasing a firearm. (5) Nothing in this section shall be construed to prohibit a person from owning, possessing, controlling, receiving, or purchasing a firearm if the person is the subject of a conservatorship, provided that the person is not prohibited from owning, possessing, controlling, receiving, or purchasing a firearm under Section 5150. (g) (1) No person shall own, possess, control, receive, or purchase any firearm if the person is subject to paragraph (1). Any person who

superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

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

Any person who meets the criteria contained in subdivision (e) or

become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 6254 of the Government Code, (3) AB 1957 and SB 798 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 166, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 166, at which time Section 1.3 of this bill shall become operative.

(c) Section 1.4 of this bill incorporates amendments to Section 6254 of the Government Code proposed by both this bill and SB 798. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 6254 of the Government Code, (3) AB 1957 and AB 166 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 798, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 798, at which time Section 1.4 of this bill shall become operative.

(d) Section 1.5 of this bill incorporates amendments to Section 6254 of the Government Code proposed by this bill, AB 1957, and SB 798. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 6254 of the Government Code, (3) AB 166 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957 and SB 798, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1957 and SB 798, at which time Section 1.5 of this bill shall become operative.

(e) Section 1.6 of this bill incorporates amendments to Section 6254 of the Government Code proposed by this bill, AB 1957, and AB 166. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 6254 of the Government Code, (3) SB 798 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957 and AB 166, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1957 and AB 166, at which time Section 1.6 of this bill shall become operative.

(f) Section 1.7 of this bill incorporates amendments to Section 6254 of the Government Code proposed by this bill, AB 166, and SB 798. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 6254 of the Government Code, (3) AB 1957 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 166 and SB 798, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 166 and SB 798, at which time Section 1.7 of this bill shall become

operative.

(g) Section 1.8 of this bill incorporates amendments to Section 6254 of the Government Code proposed by this bill, AB 1957, AB 166, and SB 798. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) all four bills amend Section 6254 of the Government Code, and (3) this bill is enacted after AB 1957, AB 166, and SB 798, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1957, AB 166, and SB 798, at which time Section 1.8 of this bill shall become operative.

SEC. 36. (a) Section 3.02 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by both this bill and AB 1630. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957, AB 170, and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1630, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, at which time Section 3.02 of this bill shall become operative.

(b) Section 3.06 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630, AB 170, and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 3.06 of this bill shall become operative.

(c) Section 3.08 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by both this bill and AB 170. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957, AB 1630, and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 170, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 170, at which time Section 3.08 of this bill shall become operative.

(d) Section 3.09 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by both this bill and SB 724. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630, AB 1957, and AB 170 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 724, in which

case Section 186.22 of the Penal Code proposed by this bill, shall remain operative only until the time at which time Section 186.22 of the Penal Code becomes operative.

(e) Section 3.1 of this bill amends Section 186.22 of the Penal Code. It shall only become operative on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630 and AB 170 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1630, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, at which time Section 3.1 of this bill shall become operative.

(f) Section 3.2 of this bill amends Section 186.22 of the Penal Code. It shall only become operative on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 170 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 170, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 170, at which time Section 3.2 of this bill shall become operative.

(g) Section 3.3 of this bill amends Section 186.22 of the Penal Code. It shall only become operative on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 3.3 of this bill shall become operative.

(h) Section 3.4 of this bill amends Section 186.22 of the Penal Code. It shall only become operative on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1630, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, at which time Section 3.4 of this bill shall become operative.

(i) Section 3.5 of this bill amends Section 186.22 of the Penal Code.

case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of SB 724, at which time Section 3.09 of this bill shall become operative.

(e) Section 3.1 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1957, and SB 724. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630 and AB 170 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957 and SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957 and SB 724, at which time Section 3.1 of this bill shall become operative.

(f) Section 3.2 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1957, and AB 1630. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 170 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957 and AB 1630, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957 and AB 1630, at which time Section 3.2 of this bill shall become operative.

(g) Section 3.3 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, and AB 170. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1630 and AB 170, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630 and AB 170, at which time Section 3.3 of this bill shall become operative.

(h) Section 3.4 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1957, and AB 170. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957 and AB 170, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957 and AB 170, at which time Section 3.4 of this bill shall become operative.

(i) Section 3.5 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, and SB 724.

which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, AB 170, and AB 1957, at which time Section 3.9 of this bill shall become operative.

(n) Section 3.10 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, AB 1957, AB 170, and SB 724. It shall only become operative if (1) all five bills are enacted and becomes effective on or before January 1, 1994, but this bill becomes operative first, (2) all five bills amend Section 186.22 of the Penal Code, and (3) this bill is enacted after AB 1630, AB 1957, AB 170, and SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, AB 1957, AB 170, and SB 724, at which time Section 3.10 of this bill shall become operative.

SEC. 37. Section 4.5 of this bill incorporates amendments to Section 189 of the Penal Code proposed by this bill, SB 310, and AB 852. It shall only become operative if (1) this bill and SB 310, or this bill and AB 852, or all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 189 of the Penal Code, and (3) this bill is enacted after SB 310 or AB 852, or both if both of those bills are enacted, in which case Section 189 of the Penal Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of SB 310 or AB 852, or both SB 310 and AB 852, at which time Section 4.5 of this bill shall become operative.

SEC. 38. (a) Section 8.5 of this bill incorporates amendments to Section 653f of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 653f of the Penal Code, (3) SB 1131 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 653f of the Penal Code, as amended by Section 8 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 8.5 of this bill shall become operative and Sections 8, 8.7, and 8.9 shall not become operative.

(b) Section 8.7 of this bill incorporates amendments to Section 653f of the Penal Code proposed by both this bill and SB 1131. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 653f of the Penal Code, (3) AB 1957 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1131, in which case Section 653f of the Penal Code, as amended by Section 8 of this bill shall remain operative only until the operative date of SB 1131, at which time Section 8.7 of this bill shall become operative and Sections 8, 8.5, and 8.9 of this bill shall not become operative.

(c) Section 8.9 of this bill incorporates amendments to Section 653f of the Penal Code proposed by this bill, AB 1957, and SB 1131.

It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill become operative first, (2) each bill amends Section 653f of the Penal Code, and (3) this bill is enacted after AB 1957 and SB 1131, in which case Section 653f of the Penal Code, as amended by Section 8 of this bill shall remain operative only until the operative date of AB 1957 and SB 1131, at which time Section 8.9 of this bill shall become operative and Sections 8, 8.5, and 8.7 of this bill shall not become operative.

SEC. 39. Section 9.3 of this bill incorporates amendments to Section 653j of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 653j of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 653j of the Penal Code, as amended by Section 9 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 9.3 of this bill shall become operative.

SEC. 40. Section 9.7 of this bill incorporates amendments to Section 666 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 666 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 666 of the Penal Code, as amended by Section 9.5 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 9.7 of this bill shall become operative.

SEC. 41. Section 12.5 of this bill incorporates amendments to Section 667.9 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 667.9 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 667.9 of the Penal Code, as amended by Section 12 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 12.5 of this bill shall become operative.

SEC. 42. Section 13.5 of this bill incorporates amendments to Section 786 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 786 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 786 of the Penal Code, as amended by Section 13 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 13.5 of this bill shall become operative.

SEC. 43. Section 14.3 of this bill incorporates amendments to Section 868.5 of the Penal Code proposed by both this bill and SB 739. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 868.5 of the Penal Code,

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and (3) this bill is of the Penal Code operative only until Section 14.3 of this bill becomes operative.

SEC. 44. Section 999e of the Penal Code proposed by this bill shall become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 999e of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 999e of the Penal Code, as amended by Section 14.3 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 14.3 of this bill shall become operative.

SEC. 45. (a) Section 1170.1 of the Penal Code proposed by this bill shall become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1170.1 of the Penal Code, as amended by Section 15.7, 15.9, 15.9f of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 15.7, 15.9, 15.9f of this bill shall become operative.

(b) Section 1170.1 of the Penal Code proposed by this bill shall become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1170.1 of the Penal Code, as amended by Section 15.7, 15.9, 15.9f of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 15.7, 15.9, 15.9f of this bill shall become operative.

(c) Section 1170.1 of the Penal Code proposed by this bill shall become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1170.1 of the Penal Code, as amended by Section 15.7, 15.9, 15.9f of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 15.7, 15.9, 15.9f of this bill shall become operative.

and (3) this bill is enacted after SB 739, in which case Section 868.5 of the Penal Code, as amended by Section 14 of this bill, shall remain operative only until the operative date of SB 739, at which time Section 14.3 of this bill shall become operative.

SEC. 44. Section 14.7 of this bill incorporates amendments to Section 999e of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 999e of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 999e of the Penal Code, as amended by Section 14.5 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 14.7 of this bill shall become operative.

SEC. 45. (a) Section 15.5 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 25. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 41 and AB 1330 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 25, in which case Section 1170.1 of the Penal Code, as amended by Section 15 of this bill shall remain operative only until the operative date of AB 25, at which time Section 15.5 of this bill shall become operative and Sections 15, 15.7, 15.9, 15.95, 15.96, 15.97, and 15.98 of this bill shall not become operative.

(b) Section 15.7 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 1330. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 25 and AB 41 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 15 of this bill shall remain operative until the operative date of AB 1330, at which time Section 15.7 of this bill shall become operative and Sections 15, 15.5, 15.9, 15.95, 15.96, 15.97, and 15.98 shall not become operative.

(c) Section 15.9 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 25, and AB 1330. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 41 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 25 and AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 15 of this bill, shall remain operative only until the operative date of AB 25 and AB 1330, at which time Section 15.9 of this bill shall become operative and Sections 15, 15.5, 15.7, 15.95, 15.96, 15.97, and 15.98 of this bill shall not become operative.

(d) Section 15.95 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 41. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 25 and AB 1330 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 41, in which case Section 1170.1 of the Penal Code, as amended by Section 15 of this bill shall remain operative until the operative date of AB 41, at which time Section 15.95 of this bill shall become operative and Sections 15, 15.5, 15.7, 15.9, 15.96, 15.97, and 15.98 shall not become operative.

(e) Section 15.96 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 25, and AB 41. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill become operative first (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 1330 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 25 and AB 41, in which case Section 1170.1 of the Penal Code, as amended by Section 15 of this bill, shall remain operative only until the operative date of AB 25 and AB 41, at which time Section 15.96 of this bill shall become operative and Sections 15, 15.5, 15.7, 15.9, 15.95, 15.97, and 15.98 of this bill shall not become operative.

(f) Section 15.97 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 41, and AB 1330. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 25 is not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 41 and AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 15 of this bill shall remain operative until the operative date of AB 41 and AB 1330, at which time Section 15.97 of this bill shall become operative and Sections 15, 15.5, 15.7, 15.9, 15.95, 15.96, and 15.98 shall not become operative.

(g) Section 15.98 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 25, AB 41, and AB 1330. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first (2) each bill amends Section 1170.1 of the Penal Code, and (3) this bill is enacted after AB 25, AB 41, and AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 15 of this bill, shall remain operative only until the operative date of AB 25, AB 41, and AB 1330, at which time Section 15.98 of this bill shall become operative and Sections 15, 15.5, 15.7, 15.9, 15.95, 15.96, and 15.97 of this bill shall not become operative.

SEC. 46. Section 16.5 of this bill incorporates amendments to Section 1192.7 of the Penal Code proposed by both this bill and AB 327. It shall only become operative if (1) both bills are enacted and

become effective
operative first,
and (3) this bill
of the Penal Code
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Section 16.5 of

SEC. 47. Section 1202.5
1957. It shall only
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Section 17.5 of
SEC. 48. Section 1203
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AB 1957, at
and Section

SEC. 49.
Section 16

become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1192.7 of the Penal Code, and (3) this bill is enacted after AB 327, in which case Section 1192.7 of the Penal Code, as amended by Section 16 of this bill, shall remain operative only until the operative date of AB 327, at which time Section 16.5 of this bill shall become operative.

SEC. 47. Section 17.5 of this bill incorporates amendments to Section 1202.5 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1202.5 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1202.5 of the Penal Code, as amended by Section 17 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 17.5 of this bill shall become operative.

SEC. 48. (a) Section 18.3 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by both this bill and AB 306. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1203 of the Penal Code, and (3) AB 1957 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 306, in which case Section 1203 of the Penal Code, as amended by Section 18 of this bill, shall remain operative only until the operative date of AB 306, at which time Section 18.3 of this bill shall become operative and Sections 18, 18.5, and 18.7 of this bill shall not become operative.

(b) Section 18.5 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1203 of the Penal Code, and (3) AB 306 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 1203 of the Penal Code, as amended by Section 18 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 18.5 of this bill shall become operative and Sections 18, 18.3, and 18.7 of this bill shall not become operative.

(c) Section 18.7 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by this bill, AB 306, and AB 1957. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1203 of the Penal Code, and (3) this bill is enacted after AB 306 and AB 1957, in which case Section 1203 of the Penal Code, as amended by Section 18 of this bill, shall remain operative only until the operative date of AB 306 and AB 1957, at which time Section 18.7 of this bill shall become operative and Sections 18, 18.3, and 18.5 of this bill shall not become operative.

SEC. 49. Section 24.3 of this bill incorporates amendments to Section 1601 of the Penal Code proposed by both this bill and AB

1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1601 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1601 of the Penal Code, as amended by Section 24 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 24.3 of this bill shall become operative.

SEC. 50. (a) Section 25.6 of this bill incorporates amendments to Section 12021.1 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 12021.1 of the Penal Code, (3) AB 1608 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 12021.1 of the Penal Code, as amended by Section 25.5 of this bill shall remain operative only until the operative date of AB 1957, at which time Section 25.6 of this bill shall become operative and Sections 25.5, 25.7, and 25.9 of this bill shall not become operative.

(b) Section 25.7 of this bill incorporates amendments to Section 12021.1 of the Penal Code proposed by both this bill and AB 1608. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 12021.1 of the Penal Code, (3) AB 1975 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1608, in which case Section 12021.1 of the Penal Code, as amended by Section 25.5 of this bill shall remain operative until the operative date of AB 1608, at which time Section 25.7 of this bill shall become operative and Sections 25.5, 25.6, and 25.9 shall not become operative.

(c) Section 25.9 of this bill incorporates amendments to Section 12021.1 of the Penal Code proposed by this bill, AB 1608, and AB 1957. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 12021.1 of the Penal Code, and (3) this bill is enacted after AB 1608 and AB 1957, in which case Section 12021.1 of the Penal Code, as amended by Section 25.5 of this bill, shall remain operative only until the operative date of AB 1608 and AB 1957, at which time Section 25.9 of this bill shall become operative and Sections 25.5, 25.6, and 25.7 of this bill shall not become operative.

SEC. 51. Section 27.5 of this bill incorporates amendments to Section 12022.5 of the Penal Code proposed by both this bill and SB 310. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 12022.5 of the Penal Code, and (3) this bill is enacted after SB 310, in which case Section 12022.5 of the Penal Code, as amended by Section 27 of this bill, shall remain operative only until the operative date of SB 310, at which time Section 27.5 of this bill shall become operative.

SEC. 52. Section 13853 of 1957. It shall only become effective operative first, (2) and (3) this bill is of the Penal Code operative only u Section 28.5 of tl

SEC. 53. Section 4514 of 1 this bill and AB are enacted and this bill become the Welfare and AB 1957, in whi Code, as amend only until the o of this bill shall

SEC. 54. Section 5328.4 o this bill and AB are enacted and this bill become of the Welfare a AB 1957, in whi Code, as amen only until the c of this bill sha

SEC. 55. Section 6500 of this bill and A are enacted and this bill become the Welfare and AB 1957, in w Code, as ame only until the of this bill sha

SEC. 56. Section 8103 of this bill and A are enacted and this bill become the Welfare and AB 1957, in v Code, as ame only until the of this bill sh

SEC. 52. Section 28.5 of this bill incorporates amendments to Section 13853 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 13853 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 13853 of the Penal Code, as amended by Section 28 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 28.5 of this bill shall become operative.

SEC. 53. Section 31.5 of this bill incorporates amendments to Section 4514 of the Welfare and Institutions Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 4514 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 4514 of the Welfare and Institutions Code, as amended by Section 31 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 31.5 of this bill shall become operative.

SEC. 54. Section 32.5 of this bill incorporates amendments to Section 5328.4 of the Welfare and Institutions Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 5328.4 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 5328.4 of the Welfare and Institutions Code, as amended by Section 32 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 32.5 of this bill shall become operative.

SEC. 55. Section 33.5 of this bill incorporates amendments to Section 6500 of the Welfare and Institutions Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 6500 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 6500 of the Welfare and Institutions Code, as amended by Section 33 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 33.5 of this bill shall become operative.

SEC. 56. Section 34.5 of this bill incorporates amendments to Section 8103 of the Welfare and Institutions Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 8103 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 8103 of the Welfare and Institutions Code, as amended by Section 34 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 34.5 of this bill shall become operative.

SEC. 57. This bill shall become operative only if Senate Bill 60 of the 1993-94 Regular Session is enacted and becomes effective on or before January 1, 1994.

SEC. 58. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 59. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the people of this state from the extreme danger posed by an increasing number of carjackings and to provide a level of punishment sufficient to deter the commission of these violent crimes, it is necessary that this act take effect immediately.

CHAPTER 611

An act to amend Section 6254 of the Government Code, to amend Sections 27, 186.22, 189, 520, 653f, 653j, 666, 667.5, 667.7, 667.9, 786, 868.5, 999e, 1170.1, 1192.7, 1202.5, 1203, 1203.055, 1203.06, 1203.075, 1203.08, 1203.09, 1601, 3057, 11105.3, 12021.1, 12022, 12022.5, and 13853 of, and to add Sections 209.5 and 215 to, the Penal Code, and to amend Sections 676, 707, 4514, 5328.4, 6500, and 8103 of the Welfare and Institutions Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1993. Filed with Secretary of State October 1, 1993.]

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

SECTION 1. Section 6254 of the Government Code, as amended by Section 2 of Chapter 1128 of the Statutes of 1992, is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in

Ch. 611]

disclosure.

(b) Records of a public agency is a public agency (commencing with the date it has been finally

(c) Personnel records would constitute

(d) Confidential

(1) Application for regulation or supervision of institutions, in associations, in companies.

(2) Examination on behalf of, or for

(1).

(3) Preliminary communication agency referred

(4) Informant referred to in

(e) Geological similar information market or criminal person.

(f) Records of information in office of the any state or compiled by investigator agency for except that the names of more than confidential property in diagrams, statements victims of insurance and any public as the result larceny, records defined by would enclose the investment completion nothing in those invest

SEC. 57. This bill shall become operative only if Senate Bill 60 of the 1993-94 Regular Session is enacted and becomes effective on or before January 1, 1994.

SEC. 58. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 59. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the people of this state from the extreme danger posed by an increasing number of carjackings and to provide a level of punishment sufficient to deter the commission of these violent crimes, it is necessary that this act take effect immediately.

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Ch. 611]

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(4) Information referred to in

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teragency or intra-agency the public agency in the that the public interest in ighs the public interest in

disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on-behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of

the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name, age, and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However,

the law of eminent

(i) Information the collection of which disclosure of the information competitive disadvantage

(j) Library circulation the borrower of information materials made available for exhibition purposes apply to records

(k) Records transferred pursuant to federal provisions of the

(l) Correspondence Governor's office Governor's legal not be transferred secretary to evaluate

(m) In the case

(n) Statements required by a licensing agency license, certification

(o) Financial Division 27 (cc Safety Code, with Control Financial financial data where the data is required States Small Business Control Financial individual request making available are subject to

(p) Records Chapter 10.3

(commencing with Section agency's deliberative recommendations, theories, or strategies to employees representation subdivision shall agency with subdivision.

(q) Records Articles 2.6

the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing

with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until the time that a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, which relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department which indicates when or where the applicant is vulnerable to attack or which concerns the applicant's medical or

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(v) Residence addresses contained in licensure applications and registration applications for collection agencies as may be required by the Bureau of Collection and Investigative Services of the Department of Consumer Affairs pursuant to Sections 6876.2, 6877, 6878, and 6894.3 of the Business and Professions Code.

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and which reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(x) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event the subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article the alleged mentally retarded person shall be informed of his or her right to counsel by the court; and if the person does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for the legal service if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person is mentally retarded and a danger to himself or herself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel.

SEC. 38. Section 8103 of the Welfare and Institutions Code is amended to read:

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

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a

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violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

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

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

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

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

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

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

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided

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(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control,

receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years.

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

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

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

(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke paragraph (4) of subdivision (f).

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

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

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

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

SEC. 39. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, premises invasion of the first degree, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act that poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

(d) (1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall purchase or receive, or attempt to purchase or receive, or shall have in his or her

possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

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

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

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

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

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

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herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

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

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

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

upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

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

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

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

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

(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke paragraph (4) of subdivision (f).

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

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

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony that is punishable by imprisonment in the state prison, or in a county jail for not more than one year, and that is subject to subdivision (b) of Section 17 of the Penal Code.

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

SEC. 40. (a) Section 1.2 of this bill incorporates amendments to Section 6254 of the Government Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 6254 of the Government Code, (3) SB 798 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 1.2 of this bill shall become operative and Sections 1, 1.4, and 1.5 of this bill shall not become operative.

(b) Section 1.4 of this bill incorporates amendments to Section 6254 of the Government Code proposed by both this bill and SB 798. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 6254 of the Government Code, (3) AB 1957 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 798, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 798, at which time Section 1.4 of this bill shall become operative and Sections 1, 1.2, and 1.5 of this bill shall not become operative.

(c) Section 1.5 of this bill incorporates amendments to Section 6254 of the Government Code proposed by this bill, AB 1957, and SB 798. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 6254 of the Government Code, and (3) this bill is enacted after AB 1957 and SB 798, in which case Section 6254 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1957 and SB 798, at which time Section 1.5 of this bill shall become operative and Sections 1, 1.2, and 1.4 of this bill shall not become operative.

SEC. 41. (a) Section 3.02 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by both this bill and AB 1630. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends

Section 186.22 of the Penal Code, (3) AB 1957, AB 170, and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1630, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, at which time Section 3.02 of this bill shall become operative.

(b) Section 3.06 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630, AB 170, and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 3.06 of this bill shall become operative.

(c) Section 3.08 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by both this bill and AB 170. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957, AB 1630, and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 170, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 170, at which time Section 3.08 of this bill shall become operative.

(d) Section 3.09 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by both this bill and SB 724. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630, AB 1957, and AB 170 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of SB 724, at which time Section 3.09 of this bill shall become operative.

(e) Section 3.1 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1957, and SB 724. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630 and AB 170 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957 and SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957 and SB 724, at which time Section 3.1 of this bill shall become operative.

(f) Section 3.2 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1957, and AB 1630. It shall only become operative if (1) each bill is enacted and becomes

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effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 170 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957 and AB 1630, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957 and AB 1630, at which time Section 3.2 of this bill shall become operative.

(g) Section 3.3 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, and AB 170. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1630 and AB 170, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630 and AB 170, at which time Section 3.3 of this bill shall become operative.

(h) Section 3.4 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1957, and AB 170. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1630 and SB 724 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1957 and AB 170, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1957 and AB 170, at which time Section 3.4 of this bill shall become operative.

(i) Section 3.5 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, and SB 724. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957 and AB 170 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1630 and SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630 and SB 724, at which time Section 3.5 of this bill shall become operative.

(j) Section 3.6 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 170, and SB 724. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957 and AB 1630 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 170 and SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 170 and SB 724, at which time Section 3.6 of this bill shall become operative.

(k) Section 3.7 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, AB 1957, and

SB 724. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 170 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1630, AB 1957, and SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, AB 1957, and SB 724, at which time Section 3.7 of this bill shall become operative.

(l) Section 3.8 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, AB 170, and SB 724. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) AB 1957 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1630, AB 170, and SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, AB 170, and SB 724, at which time Section 3.8 of this bill shall become operative.

(m) Section 3.9 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, AB 170, and AB 1957. It shall only become operative if (1) each bill is enacted and becomes effective on or before January 1, 1994, (2) each bill amends Section 186.22 of the Penal Code, (3) SB 724 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1630, AB 170, and AB 1957, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, AB 170, and AB 1957, at which time Section 3.9 of this bill shall become operative.

(n) Section 3.10 of this bill incorporates amendments to Section 186.22 of the Penal Code proposed by this bill, AB 1630, AB 1957, AB 170, and SB 724. It shall only become operative if (1) all five bills are enacted and becomes effective on or before January 1, 1994, (2) all five bills amend Section 186.22 of the Penal Code, and (3) this bill is enacted after AB 1630, AB 1957, AB 170, and SB 724, in which case Section 186.22 of the Penal Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 1630, AB 1957, AB 170, and SB 724, at which time Section 3.10 of this bill shall become operative.

SEC. 42. Section 4.5 of this bill incorporates amendments to Section 189 of the Penal Code proposed by this bill, SB 310, and AB 852. It shall only become operative if (1) this bill and SB 310, or this bill and AB 852, or all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 189 of the Penal Code, and (3) this bill is enacted after SB 310 or AB 852, or both if both of those bills are enacted, in which case Section 189 of the Penal Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of SB 310 or AB 852, or both SB 310 and AB 852, at which time Section 4.5 of this bill shall become operative.

SEC. 43. (c) Section 653f of the Penal Code, as amended by Section 1957. It shall only become effective on or before January 1, 1994, if (1) each bill amends Section 653f of the Penal Code, (2) each bill becomes effective on or before January 1, 1994, (3) SB 1131 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1131, at which time Section 8.5 of this bill shall become operative.

(b) Section 653f of the Penal Code, as amended by Section 1957. It shall only become effective on or before January 1, 1994, if (1) each bill amends Section 653f of the Penal Code, (2) each bill becomes effective on or before January 1, 1994, (3) SB 1131 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1131, at which time Section 8.5 of this bill shall become operative.

(c) Section 653f of the Penal Code, as amended by Section 1957. It shall only become effective on or before January 1, 1994, if (1) each bill amends Section 653f of the Penal Code, (2) each bill becomes effective on or before January 1, 1994, (3) SB 1131 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1131, at which time Section 8.5 of this bill shall become operative.

SEC. 44. Section 653j of the Penal Code, as amended by Section 1957. It shall only become effective on or before January 1, 1994, if (1) each bill amends Section 653j of the Penal Code, (2) each bill becomes effective on or before January 1, 1994, (3) SB 1131 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1131, at which time Section 9.5 of this bill shall become operative.

SEC. 45. Section 666 of the Penal Code, as amended by Section 1957. It shall only become effective on or before January 1, 1994, if (1) each bill amends Section 666 of the Penal Code, (2) each bill becomes effective on or before January 1, 1994, (3) SB 1131 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1131, at which time Section 10.5 of this bill shall become operative.

SEC. 46. Section 667 of the Penal Code, as amended by Section 1957. It shall only become effective on or before January 1, 1994, if (1) each bill amends Section 667 of the Penal Code, (2) each bill becomes effective on or before January 1, 1994, (3) SB 1131 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1131, at which time Section 10.5 of this bill shall become operative.

SEC. 43. (a) Section 8.5 of this bill incorporates amendments to Section 653f of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 653f of the Penal Code, (3) SB 1131 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 653f of the Penal Code, as amended by Section 8 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 8.5 of this bill shall become operative.

(b) Section 8.7 of this bill incorporates amendments to Section 653f of the Penal Code proposed by both this bill and SB 1131. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 653f of the Penal Code, (3) AB 1957 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1131, in which case Sections 8, 8.5, and 8.9 of this bill shall not become operative.

(c) Section 8.9 of this bill incorporates amendments to Section 653f of the Penal Code proposed by this bill, AB 1957, and SB 1131. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 653f of the Penal Code, and (3) this bill is enacted after AB 1957 and SB 1131, in which case Section 653f of the Penal Code, as amended by Section 8 of this bill shall remain operative only until the operative date of AB 1957 and SB 1131, at which time Section 8.9 of this bill shall become operative and Sections 8, 8.5, and 8.7 of this bill shall not become operative.

SEC. 44. Section 9.5 of this bill incorporates amendments to Section 653j of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 653j of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 653j of the Penal Code, as amended by Section 9 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 9.5 of this bill shall become operative.

SEC. 45. Section 10.5 of this bill incorporates amendments to Section 666 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 666 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 666 of the Penal Code, as amended by Section 10 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 10.5 of this bill shall become operative.

SEC. 46. Section 13.5 of this bill incorporates amendments to Section 667.9 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and

become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 667.9 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 667.9 of the Penal Code, as amended by Section 13 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 13.5 of this bill shall become operative.

SEC. 47. Section 14.5 of this bill incorporates amendments to Section 786 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 786 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 786 of the Penal Code, as amended by Section 14 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 14.5 of this bill shall become operative.

SEC. 48. Section 15.5 of this bill incorporates amendments to Section 868.5 of the Penal Code proposed by both this bill and SB 739. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 868.5 of the Penal Code, and (3) this bill is enacted after SB 739, in which case Section 868.5 of the Penal Code, as amended by Section 15 of this bill, shall remain operative only until the operative date of SB 739, at which time Section 15.5 of this bill shall become operative.

SEC. 49. Section 16.5 of this bill incorporates amendments to Section 999e of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 999e of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 999e of the Penal Code, as amended by Section 16 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 16.5 of this bill shall become operative.

SEC. 50. (a) Section 17.5 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 25. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 41 and AB 1330 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 25, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative only until the operative date of AB 25, at which time Section 17.5 of this bill shall become operative and Sections 17, 17.7, 17.9, 17.95, 17.96, 17.97, and 17.98 of this bill shall not become operative.

(b) Section 17.7 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 1330. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative

first, (2) each bill amends Section 1170.1 of the Penal Code, and (3) this bill is enacted after AB 25 and AB 41 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 25, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative and Sections 17, 17.5, 17.7, 17.9, 17.95, 17.96, 17.97, and 17.98 of this bill shall not become operative.

(c) Section 17.5 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 25. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 41 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 25, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative and Sections 17, 17.5, 17.7, 17.9, 17.95, 17.96, 17.97, and 17.98 of this bill shall not become operative.

(d) Section 17.7 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 1330. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 25 and AB 1330 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative and Sections 17, 17.5, 17.7, 17.9, 17.95, 17.96, 17.97, and 17.98 of this bill shall not become operative.

(e) Section 17.9 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 1330. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 1330 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative and Sections 17, 17.5, 17.7, 17.9, 17.95, 17.96, 17.97, and 17.98 of this bill shall not become operative.

(f) Section 17.95 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 1330. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 25 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 25, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative and Sections 17, 17.5, 17.7, 17.9, 17.95, 17.96, 17.97, and 17.98 of this bill shall not become operative.

first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 25 and AB 41 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative until the operative date of AB 1330, at which time Section 17.7 of this bill shall become operative and Sections 17, 17.5, 17.9, 17.95, 17.96, 17.97, and 17.98 shall not become operative.

(c) Section 17.9 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 25, and AB 1330. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 41 is not enacted, or as enacted does not amend that section, and (4) this bill is enacted after AB 25 and AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill, shall remain operative only until the operative date of AB 25 and AB 1330, at which time Section 17.9 of this bill shall become operative and Sections 17, 17.5, 17.7, 17.95, 17.96, 17.97, and 17.98 of this bill shall not become operative.

(d) Section 17.95 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill and AB 41. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 25 and AB 1330 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 41, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative until the operative date of AB 41, at which time Section 17.95 of this bill shall become operative and Sections 17, 17.5, 17.7, 17.9, 17.96, 17.97, and 17.98 shall not become operative.

(e) Section 17.96 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 25, and AB 41. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 1330 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 25 and AB 41, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill, shall remain operative only until the operative date of AB 25 and AB 41, at which time Section 17.96 of this bill shall become operative and Sections 17, 17.5, 17.7, 17.9, 17.95, 17.97, and 17.98 of this bill shall not become operative.

(f) Section 17.97 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 41, and AB 1330. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, (3) AB 25 is not enacted or as enacted does not amend that section,

and (4) this bill is enacted after AB 41 and AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill shall remain operative until the operative date of AB 41 and AB 1330, at which time Section 17.97 of this bill shall become operative and Sections 17, 17.5, 17.7, 17.9, 17.95, 17.96, and 17.98 shall not become operative.

(g) Section 17.98 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by this bill, AB 25, AB 41, and AB 1330. It shall only become operative if (1) all four bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1170.1 of the Penal Code, and (3) this bill is enacted after AB 41, AB 25, and AB 1330, in which case Section 1170.1 of the Penal Code, as amended by Section 17 of this bill, shall remain operative only until the operative date of AB 25, AB 41, and AB 1330, at which time Section 17.98 of this bill shall become operative and Sections 17, 17.5, 17.7, 17.9, 17.95, 17.96, and 17.97 of this bill shall not become operative.

SEC. 51. Section 18.5 of this bill incorporates amendments to Section 1192.7 of the Penal Code proposed by both this bill and AB 327. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1192.7 of the Penal Code, and (3) this bill is enacted after AB 327, in which case Section 1192.7 of the Penal Code, as amended by Section 18 of this bill, shall remain operative only until the operative date of AB 327, at which time Section 18.5 of this bill shall become operative.

SEC. 52. Section 19.5 of this bill incorporates amendments to Section 1202.5 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1202.5 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1202.5 of the Penal Code, as amended by Section 19 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 19.5 of this bill shall become operative.

SEC. 53. (a) Section 20.3 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by both this bill and AB 306. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1203 of the Penal Code, (3) AB 1957 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 306, in which case Section 1203 of the Penal Code, as amended by Section 20 of this bill, shall remain operative only until the operative date of AB 306, at which time Section 20.3 of this bill shall become operative and Sections 20, 20.5, and 20.7 of this bill shall not become operative.

(b) Section 20.5 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become

effective on or first, (2) each bill is not enacted until the bill is enacted Code, as amended only until the 20.3, and 20.7

(c) Section 1203 of the Penal Code. It shall only become effective if (1) all four bills are enacted and become effective first, (2) each bill amends Section 1203 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1203 of the Penal Code shall remain operative only until the operative date of AB 1957, at which time Sections 20, 20.5, and 20.7 of this bill shall not become operative.

SEC. 54. Section 1601 of the Penal Code, as amended by Section 1601.1 of the Penal Code, shall become effective on or before January 1, 1994, but this section becomes operative first, (2) each bill amends Section 1601.1 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1601.1 of the Penal Code shall remain operative only until the operative date of AB 1957, at which time Section 1601.1 of this bill shall become operative.

SEC. 55. Section 1202.1 of the Penal Code, as amended by Section 1202.1 of the Penal Code, shall become effective on or before January 1, 1994, but this section becomes operative first, (2) each bill amends Section 1202.1 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1202.1 of the Penal Code shall remain operative only until the operative date of AB 1957, at which time Section 1202.1 of this bill shall become operative.

(b) Section 1202.1 of the Penal Code, as amended by Section 1202.1 of the Penal Code, shall become effective on or before January 1, 1994, but this section becomes operative first, (2) each bill amends Section 1202.1 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1202.1 of the Penal Code shall remain operative only until the operative date of AB 1957, at which time Section 1202.1 of this bill shall become operative.

(c) Section 1202.1 of the Penal Code, as amended by Section 1202.1 of the Penal Code, shall become effective on or before January 1, 1994, but this section becomes operative first, (2) each bill amends Section 1202.1 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1202.1 of the Penal Code shall remain operative only until the operative date of AB 1957, at which time Section 1202.1 of this bill shall become operative.

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effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1203 of the Penal Code, (3) AB 306 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 1203 of the Penal Code, as amended by Section 20 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 20, 20.3, and 20.7 of this bill shall not become operative.

(c) Section 20.7 of this bill incorporates amendments to Section 1203 of the Penal Code proposed by this bill, AB 306, and AB 1957. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1203 of the Penal Code, and (3) this bill is enacted after AB 306 and AB 1957, in which case Section 1203 of the Penal Code, as amended by Section 20 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 20.7 of this bill shall become operative and Sections 20, 20.3, and 20.5 of this bill shall not become operative.

SEC. 54. Section 26.5 of this bill incorporates amendments to Section 1601 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 1601 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 1601 of the Penal Code, as amended by Section 26 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 26.5 of this bill shall become operative.

SEC. 55. (a) Section 29.3 of this bill incorporates amendments to Section 12021.1 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 12021.1 of the Penal Code, (3) AB 1608 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1957, in which case Section 12021.1 of the Penal Code, as amended by Section 29 of this bill shall remain operative only until the operative date of AB 1957, at which time Section 29.3 of this bill shall become operative and Sections 29, 29.5, and 29.7 of this bill shall not become operative.

(b) Section 29.5 of this bill incorporates amendments to Section 12021.1 of the Penal Code proposed by both this bill and AB 1608. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 12021.1 of the Penal Code, (3) AB 1975 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1608, in which case Section 12021.1 of the Penal Code, as amended by Section 29 of this bill shall remain operative until the operative date of AB 1608, at which time Section 29 of this bill shall become operative and Sections 29, 29.3, and 29.7 shall not become operative.

(c) Section 29.7 of this bill incorporates amendments to Section

12021.1 of the Penal Code proposed by this bill, AB 1608, and AB 1957. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 12021.1 of the Penal Code, and (3) this bill is enacted after AB 1608 and AB 1957, in which case Section 12021.1 of the Penal Code, as amended by Section 29 of this bill, shall remain operative only until the operative date of AB 1608 and AB 1957, at which time Section 29.7 of this bill shall become operative and Sections 29, 29.3, and 29.5 of this bill shall not become operative.

SEC. 56. Section 31.5 of this bill incorporates amendments to Section 12022.5 of the Penal Code proposed by both this bill and SB 310. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 12022.5 of the Penal Code, and (3) this bill is enacted after SB 310, in which case Section 12022.5 of the Penal Code, as amended by Section 31 of this bill, shall remain operative only until the operative date of SB 310, at which time Section 31.5 of this bill shall become operative.

SEC. 57. Section 32.5 of this bill incorporates amendments to Section 13853 of the Penal Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 13853 of the Penal Code, and (3) this bill is enacted after AB 1957, in which case Section 13853 of the Penal Code, as amended by Section 32 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 32.5 of this bill shall become operative.

SEC. 58. Section 35.5 of this bill incorporates amendments to Section 4514 of the Welfare and Institutions Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 4514 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 4514 of the Welfare and Institutions Code, as amended by Section 35 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 35.5 of this bill shall become operative.

SEC. 59. Section 36.5 of this bill incorporates amendments to Section 5328.4 of the Welfare and Institutions Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 5328.4 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 5328.4 of the Welfare and Institutions Code, as amended by Section 36 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 36.5 of this bill shall become operative.

SEC. 60. Section 37.5 of this bill incorporates amendments to Section 6500 of the Welfare and Institutions Code proposed by both

this bill and AB 1957. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1994, (2) each bill amends Section 12021.1 of the Penal Code, and (3) this bill is enacted after AB 1608 and AB 1957, in which case Section 12021.1 of the Penal Code, as amended by Section 29 of this bill, shall remain operative only until the operative date of AB 1608 and AB 1957, at which time Section 29.7 of this bill shall become operative and Sections 29, 29.3, and 29.5 of this bill shall not become operative.

SEC. 61. Section 31.5 of this bill incorporates amendments to Section 8103 of the Welfare and Institutions Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 8103 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 8103 of the Welfare and Institutions Code, as amended by Section 31 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 31.5 of this bill shall become operative.

SEC. 63. This bill shall become operative on or before January 1, 1994.

SEC. 64. No provision of this bill shall be construed to change the definition of "crime" in Section 6 of Article I of the California Constitution. Notwithstanding any other provision of this bill, this bill shall not become operative on the effective date of the California Constitution.

SEC. 65. This bill shall become operative on the effective date of the California Constitution. The meaning of "crime" in this bill shall be the same as the meaning of "crime" in the California Constitution.

In order to protect the public from the danger posed by a level of punishment for violent crimes

this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 6500 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 6500 of the Welfare and Institutions Code, as amended by Section 37 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 37.5 of this bill shall become operative.

SEC. 61. Section 38.5 of this bill incorporates amendments to Section 8103 of the Welfare and Institutions Code proposed by both this bill and AB 1957. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1994, but this bill becomes operative first, (2) each bill amends Section 8103 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1957, in which case Section 8103 of the Welfare and Institutions Code, as amended by Section 38 of this bill, shall remain operative only until the operative date of AB 1957, at which time Section 38.5 of this bill shall become operative.

SEC. 63. This bill shall become operative only if Assembly Bill 6 of the 1993-94 Regular Session is enacted and becomes effective on or before January 1, 1994.

SEC. 64. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 65. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the people of this state from the extreme danger posed by an increasing number of carjackings and to provide a level of punishment sufficient to deter the commission of these violent crimes, it is necessary that this act take effect immediately.

CHAPTER 224

(Senate Bill No. 1436)

An act to amend Sections 667.9, 999e, 1203.055, 1203.06, 1203.075, 1203.09, 1601, 3420, and 13853 of the Penal Code, and to amend Sections 6500 and 8103 of the Welfare and Institutions Code, relating to sentencing.

[Approved by Governor July 15, 1994.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1436, Peace. Sentencing.

Existing law provides various lists of specified crimes or prior convictions that affect sentencing provisions related to enhancements, an offense against an occupant of a public transit vehicle, the granting of probation to a person who personally uses a firearm in the commission or attempted commission of a crime, the granting of probation or the suspension of the execution of the imposition of a sentence or the dismissal of a case involving a person who inflicts great bodily injury on the person of another, or who commits an offense against a person of a specified age or impairment, the availability of outpatient status in the case of any person charged with and found incompetent, as specified, and the presumption affecting the burden of producing evidence in favor of filing for a fitness proceeding.

This bill would add kidnapping during the commission of carjacking to those lists of specified crimes or prior convictions.

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

SECTION 1. Section 667.9 of the Penal Code is amended to read:

§ 667.9. (a) Any person who commits one or more of the crimes listed in * * * subdivision (c) against a person who is 65 years of age or older, or against a person who is blind, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a one-year enhancement for each violation in addition to the Sentence provided under Section 667.

(b) Any person who has a prior conviction for any of the offenses listed in subdivision (c), and who commits one or more of the crimes listed in that subdivision against a person who is 65 years of age or older, or against a person who is blind, deaf, developmentally disabled, a paraplegic, or a quadriplegic, or against a person who is under the age of 14 years, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 667.

(c) Subdivisions (a) and (b) apply to the following crimes:

(1) Robbery, in violation of Section 211. (2) Kidnapping, in violation of Section 207. (3) Kidnapping * * *, in violation of Section 209.

(4) Rape by force, violence, or fear of immediate and unlawful bodily injury on the victim or another person in violation of paragraph (2) of subdivision (a) of Section 261.

*Italics indicate changes or additions. * * * indicate omissions.*

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(5) Sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person in violation of Section 286 or 288a.

(6) Mayhem, as defined in Section 203.

(7) Carjacking, in violation of Section 215.

(8) *Kidnapping, in violation of Section 209.5.*

(9) Burglary of the first degree, as defined in Section 460.

(d) The existence of any fact which would bring a person under subdivision (a) or (b) shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) As used in this section, "developmentally disabled" means a severe, chronic disability of a person, which is all of the following:

(1) Attributable to a mental or physical impairment or a combination of mental and physical impairments.

(2) Likely to continue indefinitely.

(3) Results in substantial functional limitation in three or more of the following areas of life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

SEC. 2. Section 999e of the Penal Code is amended to read:

§ 999e. (a) An individual shall be the subject of career criminal prosecution efforts who is under arrest for the commission or attempted commission of one or more of the following felonies: robbery, carjacking, burglary, arson, any unlawful act relating to controlled substances in violation of Section 11351, 11351.5, or 11352 of the Health and Safety Code, receiving stolen property, grand theft and grand theft auto, and lewd or lascivious conduct upon a child; and who is either being prosecuted for three or more separate offenses not arising out of the same transaction involving one or more of these felonies, or has suffered at least one conviction during the preceding 10 years for any felony listed in paragraph (1) of this subdivision, or at least two convictions during the preceding 10 years for any felony listed in paragraph (2) of this subdivision:

(1) Robbery of the first degree, carjacking, burglary of the first degree, arson as defined in Section 451, unlawfully causing a fire as defined in Section 452, forcible rape, sodomy or oral copulation committed with force, lewd or lascivious conduct committed upon a child, kidnapping as defined in Section 209 or 209.5, or murder.

(2) Grand theft, grand theft auto, receiving stolen property, robbery of the second degree, burglary of the second degree, kidnapping as defined in Section 207, assault with a deadly weapon or instrument, or any unlawful act relating to controlled substances in violation of Section 11351 or 11352 of the Health and Safety Code.

For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison.

(b) In applying the career criminal selection criteria set forth above, a district attorney may elect to limit career criminal prosecution efforts to persons arrested for

*Italics indicate changes or additions. * * * indicate omissions.*

any one or more of the felonies listed in subdivision (a) of this section if crime statistics demonstrate that the incidence of one or more of these felonies presents a particularly serious problem in the county.

(c) In exercising the prosecutorial discretion granted by Section 999g, the district attorney shall consider the following: (1) the character, background, and prior criminal background of the defendant; and (2) the number and the seriousness of the offenses currently charged against the defendant.

SEC. 3. Section 1203.055 of the Penal Code is amended to read:

§ 1203.055. (a) Notwithstanding any other law, in sentencing a person convicted of committing or of attempting to commit one or more of the offenses listed in subdivision (b) against a person who is a passenger, operator, driver, or other occupant of any public transit vehicle whether the offense or attempt is committed within the vehicle or directed at the vehicle, the court shall require that the person serve some period of confinement. If probation is granted, it shall be a condition of probation that the person shall be confined in the county jail for some period of time. If the time spent in jail prior to arraignment is less than 24 hours, it shall not be considered to satisfy the requirement that some period of confinement be imposed.

As used in this subdivision, "public transit vehicle" means any motor vehicle, streetcar, trackless trolley, bus, shuttle, light rail system, rapid transit system, subway, train, taxi cab, or jitney, which transports members of the public for hire.

(b) Subdivision (a) applies to the following crimes:

- (1) Murder.
- (2) A violation of Section 241, 241.3, 241.4, 244, 245, 245.2, or 246.
- (3) Robbery, in violation of Section 211. (4) Kidnapping, in violation of Section 207. (5) Kidnapping * * *, in violation of Section 209.
- (6) Battery, in violation of Section 243, 243.1, or 243.3.
- (7) Rape, in violation of Section 261, 262, 264, or 264.1.
- (8) Assault with intent to commit rape or sodomy, in violation of Section 220.
- (9) Any other offense in which the defendant inflicts great bodily injury on any person other than an accomplice. As used in this paragraph, "great bodily injury" means "great bodily injury" as defined in Section 12022.7.
- (10) Grand theft, in violation of subdivision (1) of Section 487.
- (11) Throwing of a hard substance or shooting a missile at a transit vehicle, in violation of Section 219.2.
- (12) Unlawfully causing a fire, in violation of Section 452.
- (13) Drawing, exhibiting, or using a firearm or deadly weapon, in violation of Section 417.
- (14) A violation of Section 214.
- (15) A violation of Section 215.
- (16) *Kidnapping, in violation of Section 209.5.*

(c) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of a felony offense falling within this section if the person has been previously convicted and sentenced pursuant to this section.

(d)(1) The existence of any fact which would make a person ineligible for probation under subdivisions (a) and (c) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

A finding bringing the defendant within this section shall not be stricken pursuant to Section 1385 or any provision of law.

*Italics indicate changes or additions. * * * indicate omissions.*

(2) This subdivision pursuant to Division with Section 6000)

(e) The court shall committing a crime in which the court reasons why the court to the victim. If re condition of proba states on the recor defendant perform construed to limi probation.

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(3) As used in subdivision (a) "used a firearm" means to display a firearm in a menacing manner, to intentionally fire it, or to intentionally strike or hit a human being with it.

(4) As used in subdivision (a) "armed with a firearm" means to knowingly carry a firearm as a means of offense or defense.

SEC. 5. Section 1203.075 of the Penal Code is amended to read:

§ 1203.075. Notwithstanding the provisions of Section 1203:

(a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within * * * this section be stricken pursuant to Section 1385 for, any person who, with the intent to inflict the injury, personally inflicts great bodily injury on the person of another in the commission or attempted commission of any of the following crimes:

- (1) Murder.
- (2) Robbery, in violation of Section 211. (3) Kidnapping, in violation of Section 207. (4) Kidnapping * * *, in violation of Section 209.
- (5) Burglary of the first degree, as defined in Section 460.
- (6) Rape, in violation of subdivision (2) of Section 261.
- (7) Assault with intent to commit rape or sodomy, in violation of Section 220.
- (8) Escape, in violation of Section 4530 or 4532.
- (9) A violation of subdivision (a) of Section 289.
- (10) Sodomy, in violation of Section 286.
- (11) Oral copulation, in violation of Section 288a.
- (12) Carjacking, in violation of Section 215.
- (13) *Kidnapping, in violation of Section 209.5.*

(b)(1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(3) As used in subdivision (a), "great bodily injury" means "great bodily injury" as defined in Section 12022.7.

SEC. 6. Section 1203.09 of the Penal Code is amended to read:

§ 1203.09. (a) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who commits or attempts to commit one or more of the crimes listed in subdivision (b) against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, a quadriplegic, or a person confined to a wheelchair and that disability is known or reasonably should be known to the person committing the crime; and who during the course of the offense inflicts great bodily injury upon the person.

(b) Subdivision (a) applies to the following crimes:

- (1) Murder.
- (2) Robbery, in violation of Section 211. (3) Kidnapping, in violation of Section 207. (4) Kidnapping * * *, in violation of Section 209.
- (5) Burglary of the first degree, as defined in Section 460.
- (6) Rape by force or violence, in violation of subdivision (2) of Section 261.
- (7) Assault with intent to commit rape or sodomy, in violation of Section 220.

*Italics indicate changes or additions. * * * indicate omissions.*

(8) Carjacking.
(9) *Kidnapping*
(c) The existence of a fact which would make a person ineligible for probation under either subdivision (a) and either admitted in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.
(d) As used in subdivision (a), "great bodily injury" means "great bodily injury" as defined in Section 12022.7.
(e) This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.
(f) Except in the case of a person who is 60 years of age or older, a physical injury or mayhem.

SEC. 7. Section 1600.

§ 1601. (a) A person who is charged with, convicted of, or sentenced to a term of imprisonment for a charge of, convicted of, or sentenced to a term of imprisonment for an aggravated mayhem, or a person who suffers intentional or dangerous physical injury or subdivision (a) of Section 220 in which the person is injured or harmed to another person for 30 days or more pursuant to Section 1600.

(b) In the case of a person who is convicted of a crime under subdivision (a) of Section 220 in which the person is injured or harmed to another person for 30 days or more pursuant to Section 1600, the person shall be confined in a state hospital or other institution specified in Section 1600.

SEC. 8. Section 1600.

§ 3420. (a) A person who is charged with, convicted of, or sentenced to a term of imprisonment for a charge of, convicted of, or sentenced to a term of imprisonment for an aggravated mayhem, or a person who suffers intentional or dangerous physical injury or subdivision (a) of Section 220 in which the person is injured or harmed to another person for 30 days or more pursuant to Section 1600, the person shall be confined in a state hospital or other institution specified in Section 1600.

(b) The department of corrections shall determine whether the person is eligible for admission to the department of corrections already been admitted to an agency that provides residential care.
(c) The department of corrections shall determine whether the person is eligible for admission to the department of corrections already been admitted to an agency that provides residential care.
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SEC. 10. Section 6500 of the Welfare and Institutions Code is amended to read:

§ 6500. On and after July 1, 1971, no mentally retarded person may be committed to the State Department of Developmental Services pursuant to this article, unless he or she is a danger to himself or herself or others. For the purposes of this article, dangerousness to self or others shall be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event such subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article the alleged mentally retarded person shall be informed of his or her right to counsel by the court; and if the person does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for such legal service if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person is mentally retarded and a danger to himself or herself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates *this* authority to the county counsel.

SEC. 11. Section 8103 of the Welfare and Institutions Code is amended to read:

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

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

(b)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of

Italics indicate changes or additions. * * * indicate omissions.

murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

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

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

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice

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shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

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

(f)(1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

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

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of

*Italics indicate changes or additions. * * * indicate omissions.*

the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

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

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

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

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

(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke paragraph (4) of subdivision (f).

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

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

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

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- Pen C § 667.9. (1) D. deleted "for ransom and (4) redesignate
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(j) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

EXPLANATORY NOTES SENATE BILL 1436:

- Pen C § 667.9. (1) Deleted "paragraphs (1) to (8), inclusive, of" after "crimes listed in" in subd (a); (2) deleted "for ransom, extortion, or robbery" after "Kidnapping" in subd (c)(1); (3) added subd (c)(8); and (4) redesignated former subd (c)(8) to be subd (c)(9).
- Pen C § 999e. Substituted "Section 209 or 209.5" for "Section 209" in subd (a)(1).
- Pen C § 1203.055. (1) Deleted "for ransom, extortion, or robbery" after "Kidnapping" in subd (b)(5); and (2) added subd (b)(6).
- Pen C § 1203.06. (1) Deleted "for ransom, extortion, or robbery" after "Kidnapping" in subd (a)(1)(D); and (2) adding subd (a)(1)(K).
- Pen C § 1203.075. (1) Deleted "the provisions of" after "the defendant within" in the introductory clause; (2) deleted "for ransom, extortion, or robbery" after "Kidnapping" in subd (a)(4); and (3) added subd (a)(13).
- Pen C § 1203.09. (1) Redesignated former subs (b)(i)-(b)(viii) to be subs (b)(1)-(b)(7); (2) deleted "for ransom, extortion, or robbery" after "Kidnapping" in subd (b)(4); and (3) added subd (b)(9).
- Pen C § 1601. Substituted "Section 207, 209, or 209.5" for "Section 207 or 209" in subd (a).
- Pen C § 3420. (1) Deleted "such" after "the date of" in subd (b); and (2) redesignated former subs (e)(1)(i)-(e)(1)(ix) to be subs (e)(1)(A)-(e)(1)(I).
- Pen C § 13853. Substituted "Section 209 or 209.5" for "Section 209" near the end of subd (a).
- W & I C § 6500. Substituted (1) "Section 207, 209, or 209.5" for "Section 207 or 209" in the second sentence of the first paragraph; and (2) "this" for "such" near the end of the section.
- W & I C § 8103. Substituted "Section 207, 209, or 209.5" for "Section 207 or 209" in subd (b)(1).

CHAPTER 1075

(Senate Bill No. 1444)

n act to amend Section 2236.1 of the Business and Professions Code, to amend Sections 44237, 67380, and 87010 of the Education Code, to amend Sections 3521 and 1103 of the Evidence Code, to amend Sections 358 and 3021 of the Family Code, to amend Sections 6254, 12970, 13960, and 19702 of the Government Code, to amend Section 273.5 of, and to add Section 679.04 to, the Penal Code, and to amend Sections 1732, 1767.1, 1781, 6500, 8103, and 15610.63 of the Welfare and Institutions Code, relating to crimes.

[Approved by Governor September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1444, Solis. Crimes: domestic violence: sexual assault.

(1) Existing law provides that a physician and surgeon's certificate shall be suspended automatically during the time that the holder of the certificate is incarcerated after conviction of a felony and provides a hearing procedure to determine whether the felony was substantially related to the qualifications, functions, or duties of the physician and surgeon for purposes of determining the length of the suspension. Specified crimes are conclusively presumed to be substantially related to the qualifications, functions, or duties of a physician and surgeon for these purposes and a hearing is not required with respect to a conviction for these crimes.

This bill would add the crime of spousal rape to the list of crimes that are conclusively presumed to be substantially related to the qualifications, functions, or duties of a physician and surgeon for these purposes.

(2) Existing law requires every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level to require each new employee having contact with minor pupils and not possessing a valid California teaching credential, or not currently licensed by another state agency that requires a criminal record check, to submit 2 sets of fingerprints to the Department of Justice for the purpose of obtaining a criminal record summary from the department and the Federal Bureau of Investigation. The Department of Justice is required to review the Federal Bureau of Investigation criminal record summary to ascertain whether or not a new employee has a conviction record or an arrest pending final adjudication for any sex offense, controlled substance offense, or crime of violence, and to notify the private school employer, as specified, as to whether or not a new employee has a conviction or arrest pending final adjudication for any of those crimes.

This bill would add the crime of spousal rape to the list of sex offenses required to be reported for these purposes.

(3) Existing law provides that the names of victims of specified crimes may not be disclosed, except as provided, pursuant to provisions requiring the disclosure of information concerning crimes committed on specified postsecondary institution campuses.

This bill additionally would provide that the name of the victim of the crime of spousal rape may not be disclosed, except as specified, under these provisions.

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(4) Existing law provides that governing boards of community college districts may not employ or retain on employment persons convicted of, and may suspend persons charge with, specified sex offenses.

This bill would add specified spousal rape offenses to the list of sex offenses for purposes of these provisions.

(5) Existing law provides that, in specified criminal proceedings, the district attorney may move to exclude from evidence the victim's current address and telephone number.

This bill would authorize the district attorney additionally to exclude from evidence the address and telephone number of the victim of spousal rape.

(6) Existing law provides a procedure to be followed in prosecutions for specified offenses in which evidence of sexual conduct of a complaining witness is offered to back the credibility of the witness.

This bill would require that this procedure additionally be followed in a prosecution for spousal rape in which this type of evidence is offered.

(7) Existing law provides that, in prosecutions for specified offenses, opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness's sexual conduct is inadmissible by the defendant to prove consent by the complaining witness.

This bill additionally would make this provision applicable in prosecutions for spousal rape.

Under existing law, the State Department of Health Services is required to prepare and publish a brochure with information regarding genetic diseases and defects and AIDS, and to make the brochure available for distribution to each applicant for a marriage license.

This bill would require the brochure to include information concerning domestic violence.

(9) Existing law authorizes the courts to make determinations regarding the custody of minor children and to issue orders regarding visitation with those children in accordance with certain standards. Existing law makes these provisions relating to custody applicable to various proceedings in family law, including, among others, proceedings to determine custody or visitation pursuant to the Domestic Violence Prevention Act.

This bill would prohibit the construction of those provisions to authorize custody or visitation rights to be granted to any nonparent party to a Domestic Violence Prevention Act proceeding. This bill would declare the intent of the Legislature to restate and clarify existing law with regard to the authority of a nonparent party to seek custody or visitation through a Domestic Violence Prevention Act proceeding.

(10) Existing law requires state and local law enforcement agencies to make public specified information pertaining to crimes and provides that information about the victim of a specified crime may be withheld, as provided.

This bill would provide additionally that this information may be withheld about the victim of the crime of spousal rape.

(11) Existing law requires the Fair Employment and Housing Commission to provide to the local district attorney's office a copy of its decision and order if it finds that a party has engaged in an unlawful practice consisting of a specified act, including rape.

This bill additionally would require that a copy of the decision and order be provided to the local district attorney's office if there is a finding that a party has engaged in an unlawful practice consisting of spousal rape.

(12) Existing law defines the term "injury" for purposes of provisions governing the procedure by which crime victims may obtain restitution through compensation

from the Restitution Fund. These provisions do not provide for restitution for emotional injury, unless it is accompanied by physical injury or the threat of physical injury. Under these provisions, a victim of a specified crime who sustains emotional injury is presumed to have sustained physical injury.

This bill additionally would provide that a victim of spousal rape who sustains emotional injury is presumed to have sustained physical injury for these purposes.

(13) Existing law requires the State Personnel Board to provide to the local district attorney's office a copy of its decision and order if it finds that a person has engaged in discrimination consisting of a specified act, including rape.

This bill additionally would require that a copy of the decision and order be provided to the local district attorney's office if there is a finding that a person has engaged in discrimination consisting of spousal rape.

(14) Existing law provides that, if probation is granted or the execution or imposition of a sentence is suspended for a person convicted of specified domestic violence offenses who previously has been convicted of such an offense, as provided, it shall be a condition thereof that the person be imprisoned in a county jail for not less than 96 hours and that he or she complete a batterer's treatment program.

This bill would increase this minimum time of imprisonment in the county jail to not less than 15 days. By increasing this minimum term of imprisonment in a county jail, this bill would impose a state-mandated local program.

(15) Existing law provides that, if probation is granted or the execution or imposition of a sentence is suspended for a person convicted of specified domestic violence offenses who previously has been convicted of two or more of these offenses, as provided, it shall be a condition thereof that the person be imprisoned in a county jail for not less than 30 days and that he or she complete a batterer's treatment program.

This bill would increase this minimum time of imprisonment in the county jail to not less than 60 days. By increasing this minimum term of imprisonment in a county jail, this bill would impose a state-mandated local program.

(16) Existing law sets forth certain rights of victims of, and witnesses to, crimes.

This bill additionally would provide that the victim of sexual assault or spousal rape has the right to have advocates present at any evidentiary, medical, or physical examination or interview by law enforcement authorities or defense attorneys.

(17) Existing law provides that a person convicted of a specified sex offense committed when that person was 18 years of age who has previously been convicted of any such felony may not be committed to the Youth Authority.

This bill would add the crime of spousal rape to the list of specified sex offenses for these purposes.

(18) Existing law requires the Youthful Offender Parole Board to send to specified individuals written notice of the parole consideration or review hearing, and a progress report, of a person committed to the Department of the Youth Authority for the commission of specified offenses.

This bill would add specified spousal rape offenses to the list of offenses specified for these purposes.

(19) Existing law requires the Youthful Offender Parole Board to send to specified individuals written notice of a petition and of any hearing set for a petition to have a person committed to state prison who is under the control of the Youth Authority for the commission of murder or specified rape offenses.

This bill additionally would require this notice to be sent concerning a person committed to state prison who is under the control of the Youth Authority for the commission of specified spousal rape offenses.

(20) Existing law provides that a mentally retarded person may not be committed

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to the State Department of Developmental Services pursuant to specified provisions of law, unless he or she is a danger to himself or herself or others. Dangerousness to self or others includes a finding of incompetence to stand trial when the defendant has been charged with specified crimes.

This bill would add specified spousal rape offenses to the list of specified crimes for these purposes.

(21) Existing law provides that a person found not guilty by reason of insanity of any of specified crimes may not purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control a firearm or other deadly weapon. A violation of this provision is punishable as a felony or a misdemeanor.

This bill additionally would provide that a person found not guilty by reason of insanity of specified spousal rape offenses may not purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control a firearm or other deadly weapon. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(22) Existing law defines the term "physical abuse" to include specified crimes for purposes of provisions requiring the reporting, investigating, and prosecuting of acts of abuse to elder or dependent adults.

This bill additionally would define "physical abuse" to include the crime of spousal rape for these purposes.

(23) This bill would incorporate additional changes to Section 44237 of the Education Code, proposed by AB 2738, to be operative only if this bill and AB 2738 are chaptered and become effective on or before January 1, 1997, and this bill is chaptered last.

(24) 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.

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

SECTION 1. Section 2236.1 of the Business and Professions Code is amended to read:

§ 2236.1. (a) A physician and surgeon's certificate shall be suspended automatically during any time that the holder of the certificate is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The Division of Medical Quality shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the certificate of the physician and surgeon has been automatically suspended by virtue of his or her incarceration, and if so, the duration of that suspension. The division shall notify the physician and surgeon of the license suspension and of his or her right to elect to have the issue of penalty heard as provided in this section.

(b) Upon receipt of the certified copy of the record of conviction, if after a hearing it is determined therefrom that the felony of which the licensee was convicted was substantially related to the qualifications, functions, or duties of a physician and surgeon, the Division of Medical Quality shall suspend the license until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the division. The issue of substantial relationship shall be heard by an administrative

*Italics indicate changes or additions. * * * indicate omissions.*

law judge from the Medical Quality Hearing Panel sitting alone or with a panel of the division, in the discretion of the division.

(c) Notwithstanding subdivision (b), a conviction of any crime referred to in Section 2237, or a conviction of Section 187, 261, 262, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a physician and surgeon and no hearing shall be held on this issue. Upon its own motion or for good cause shown, the division may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in the medical profession.

(d) (1) Discipline may be ordered in accordance with Section 2227, or the Division of Licensing may order the denial of the license when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Medical Quality Hearing Panel sitting alone or with a panel of the division, in the discretion of the division. The hearing shall not be had until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in this section at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a physician and surgeon. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the division from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in the conviction, including a transcript of the testimony therein, may be received in evidence.

(f) The other provisions of this article setting forth a procedure for the suspension or revocation of a physician and surgeon's certificate shall not apply to proceedings conducted pursuant to this section.

SEC. 2. Section 44237 of the Education Code is amended to read:

§ 44237. (a) Commencing October 1, 1985, every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level shall require each new employee having contact with minor pupils and not possessing a valid California state teaching credential, or not currently licensed by another state agency that requires a criminal record summary, to submit on or before the first day of his or her employment, two sets of fingerprints to the Department of Justice for the purpose of obtaining a criminal record summary from the Department of Justice and the Federal Bureau of Investigation. This requirement is a condition of employment. It is the intent of the Legislature under this section to assist in the employment decision. This section shall not be construed, however, to prohibit the employment of any person based upon his or her criminal record.

(b) The Department of Justice shall furnish a criminal record summary to the employer designated by a new employee submitting fingerprints pursuant to subdivision (a). The criminal record summary shall contain only arrests resulting in a conviction and arrests pending final adjudication. The criminal record summary

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ished to the employer shall be maintained by the employer in a secured file separate from personnel files, and shall be maintained in accordance with regulations for Criminal Offender Record Information Security as specified in Subchapter 7 (commencing with Section 700) of Chapter 1 of Title 11 of the California Code of Regulations.

(c) The Department of Justice shall review the criminal record summary it obtains from the Federal Bureau of Investigation to ascertain whether or not a new employee has a conviction record or an arrest pending final adjudication for any sex offense, controlled substance offense, or crime of violence. The Department of Justice shall provide written notification to the private school employer only as to whether or not a new employee has any convictions or arrests pending final adjudication for any of those crimes, but shall not provide information identifying any offense for which an employee was convicted or arrested.

(d) The employer may request subsequent arrest service from the Department of Justice as is provided under Section 11105.2 of the Penal Code.

(e) As used in this section, the following terms shall have the following definitions:

(1) "Crime of violence" means a conviction for any of the offenses specified in division (c) of Section 667.5 of the Penal Code, or a violation or attempted violation of Chapter 8 (commencing with Section 236) or Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code.

Out-of-state convictions for any violation or attempted violation of any crime prescribed in this paragraph shall also be deemed a crime of violence.

(2) "Controlled substance offense" means a felony conviction for a violation or attempted violation of Division 10 (commencing with Section 11000) of the Health and Safety Code.

Out-of-state convictions for any violation or attempted violation of any crime prescribed in this paragraph shall also be deemed a crime of violence.

(3) "Employer" means every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level.

(4) "New employee" means any person hired to work in a private school on or after July 1, 1985, on a regular, paid full-time or regular, paid part-time basis who will have contact with minor pupils.

(5) "Sex offense" means a conviction for any violation or attempted violation of Section 220, 261, 261.5, 262, 264, 266, 266j, 267, 273a, 273d, 285, 286, 288, 289, 311.2, 311.3, 311.4, 313.1, 314, 647b, or 647d of the Penal Code, or former Section 647a of the Penal Code, or commitment as a mentally disordered sex offender under former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of the Welfare and Institutions Code as repealed by Chapter 928 of the Statutes of 1981.

Out-of-state convictions for any violation or attempted violation of any crime prescribed in this paragraph shall also be deemed a sex offense.

(f) Any new employee who wishes to have his or her employer consider information relevant to his or her criminal record, such as evidence of rehabilitation, shall be responsible for submitting these facts or documentation to his or her employer.

(g) The Commission on Teacher Credentialing shall send on a monthly basis to each private school a list of all teachers who have had their state teaching credential revoked or suspended. The list shall be identical to the list compiled for public schools in the state. The commission shall also send on a quarterly basis a complete and updated list of all teachers who have had their teaching credentials revoked or suspended, excluding teachers who have had their credentials reinstated, or who are deceased.

(h) The Department of Justice may charge each applicant for a criminal record

summary a reasonable fee to cover costs associated with the processing, reviewing, and supplying of the criminal record summary as required by this section. In no event shall the fee exceed the actual costs incurred by the department.

SEC. 2.5. Section 44237 of the Education Code is amended to read:

§ 44237. (a) Commencing October 1, 1985, every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level shall require each new employee having contact with minor pupils and not possessing a valid California state teaching credential, or not currently licensed by another state agency that requires a criminal record summary, to submit on or before the first day of his or her employment, two sets of fingerprints to the Department of Justice for the purpose of obtaining a criminal record summary from the Department of Justice and the Federal Bureau of Investigation. This requirement is a condition of employment. It is the intent of the Legislature under this section to assist in the employment decision. This section shall not be construed, however, to prohibit the employment of any person based upon his or her criminal record.

(b) The Department of Justice shall furnish a criminal record summary to the employer designated by a new employee submitting fingerprints pursuant to subdivision (a). The criminal record summary shall contain only arrests resulting in a conviction and arrests pending final adjudication. The criminal record summary furnished to the employer shall be maintained by the employer in a secured file separate from personnel files, and shall be maintained in accordance with regulations for Criminal Offender Record Information Security as specified in Subchapter 7 (commencing with Section 700) of Chapter 1 of Title 11 of the California Code of Regulations.

(c) The Department of Justice shall review the criminal record summary it obtains from the Federal Bureau of Investigation to ascertain whether or not a new employee has a conviction record or an arrest pending final adjudication for any sex offense, controlled substance offense, or crime of violence. The Department of Justice shall provide written notification to the private school employer only as to whether or not a new employee has any convictions or arrests pending final adjudication for any of those crimes, but shall not provide information identifying any offense for which an employee was convicted or arrested.

(d) The employer may request subsequent arrest service from the Department of Justice as is provided under Section 11105.2 of the Penal Code.

(e) As used in this section, the following terms shall have the following definitions:

(1) "Crime of violence" means a conviction for any of the offenses specified in *Section 273a of, in Section 273d of, or in subdivision (c) of Section 667.5 of the Penal Code, or a violation or attempted violation of Chapter 8 (commencing with Section 236) or Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code.*

An out-of-state conviction for any violation or attempted violation of any crime prescribed in this paragraph shall also be deemed a crime of violence.

(2) "Controlled substance offense" means a felony conviction for a violation or attempted violation of Division 10 (commencing with Section 11000) of the Health and Safety Code.

An out-of-state conviction for any violation or attempted violation of any crime prescribed in this paragraph shall also be deemed a crime of violence.

(3) "Employer" means every person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level.

"New employee" means any person hired to work in a private school on or after July 1, 1985, on a regular, paid full-time or regular, paid part-time basis who will have contact with minor pupils.

"Sex offense" has the same meaning as defined in Section 44010.

A conviction for any violation or attempted violation of any crime described in this paragraph shall also be deemed a sex offense.

Any new employee who wishes to have his or her employer consider information relevant to his or her criminal record, such as evidence of rehabilitation, shall be responsible for submitting these facts or documentation to his or her employer.

The Commission on Teacher Credentialing shall send on a monthly basis to each private school a list of all teachers who have had their state teaching credentials revoked or suspended. The list shall be identical to the list compiled for public schools in the state. The commission shall also send on a quarterly basis a complete updated list of all teachers who have had their teaching credentials revoked or suspended, excluding teachers who have had their credentials reinstated, or who are reinstated.

The Department of Justice may charge each applicant for a criminal record summary a reasonable fee to cover costs associated with the processing, reviewing, and supplying of the criminal record summary as required by this section. In no case shall the fee exceed the actual costs incurred by the department.

Section 67380 of the Education Code is amended to read:

67380. (a) The governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary institution receiving public funds for student financial assistance shall do all of the following:

(1) Require the appropriate officials at each campus within their respective jurisdictions to compile records of both of the following:

(A) All occurrences reported to campus police, campus security personnel, or campus safety authorities of, and arrests for, crimes that are committed on campus and that involve violence, hate violence, theft or destruction of property, illegal drugs, or alcohol intoxication.

(B) All occurrences of noncriminal acts of hate violence reported to, and for which a written report is prepared by, designated campus authorities.

(2) Require any written record of a noncriminal act of hate violence to include, but not be limited to, the following:

(A) A description of the act of hate violence.

(B) Victim characteristics.

(C) Offender characteristics, if known.

(3) Make the information concerning the crimes compiled pursuant to subparagraph (A) of paragraph (1) available within two business days following the request of any student or employee of, or applicant for admission to, any campus within their respective jurisdictions, or to the media, unless the information is the type of information exempt from disclosure pursuant to subdivision (f) of Section 6254 of the Government Code, in which case the information is not required to be disclosed. Notwithstanding paragraph (2) of subdivision (f) of Section 6254 of the Government Code, the name of a victim of any crime defined by Section 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, or 422.75 of the Penal Code shall not be disclosed without the permission of the victim, or the victim's parent or guardian if the victim is a minor.

For purposes of this paragraph and subparagraph (A) of paragraph (1), the campus

*Italics indicate changes or additions. * * * indicate omissions.*

police, campus security personnel, and campus safety authorities described in subparagraph (A) of paragraph (1) shall be included within the meaning of "state or local police agency" and "state and local law enforcement agency," as those terms are used in subdivision (f) of Section 6254 of the Government Code.

(4) Require the appropriate officials at each campus within their respective jurisdictions to prepare, prominently post, and copy for distribution on request a campus safety plan that sets forth all of the following: the availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards that have been established for particular facilities or activities, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions expected to be made during the next 24 months. For the purposes of this section, posting and distribution may be accomplished by including relevant safety information in a student handbook or brochure that is made generally available to students.

(5) Require the appropriate officials at each campus within their respective jurisdictions to report information compiled pursuant to paragraph (1) relating to hate violence to the governing board, trustees, board of directors, or regents, as the case may be. The governing board, trustees, board of directors, or regents, as the case may be, shall, upon collection of that information from all of the campuses within their jurisdiction, transmit a report containing a compilation of that information to the California Postsecondary Education Commission no later than January 1 of each year, commencing January 1, 1993. The commission shall submit a report to the Legislature and the Governor on July 1, 1993, and every two years thereafter, on the type and number of incidents of hate violence occurring in institutions of public higher education in California. It is the intent of the Legislature that the governing board of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, the Regents of the University of California, and the governing board of any postsecondary institution receiving public funds for student financial assistance establish guidelines for identifying and reporting occurrences of hate violence. It is the intent of the Legislature that the guidelines established by these institutions of higher education be as consistent with each other as possible. These guidelines shall be developed in consultation with the California Postsecondary Education Commission, the Department of Fair Employment and Housing, and the California Association of Human Rights Organizations. The report shall include, but not be limited to, the following:

(A) A comparison of incidents occurring in the year being reported to previous years for which there is hate violence data.

(B) To the extent possible, a comparison of incidents of hate violence occurring at community colleges, the California State University, the Hastings College of the Law, the University of California, and postsecondary institutions receiving funds for student financial assistance with incidents occurring at colleges and universities in other states and private universities in California.

(C) Findings and recommendations to the Legislature on the means of addressing hate violence at community colleges, the California State University, the Hastings College of the Law, the University of California, and postsecondary institutions receiving public funds for student financial assistance.

(b) Any person who is refused information required to be made available pursuant to subparagraph (A) of paragraph (1) of subdivision (a) may maintain a civil action for damages against any institution that refuses to provide the information, and the court shall award that person an amount not to exceed one thousand dollars (\$1,000) if the court finds that the institution refused to provide the information.

(c) For purposes of this section, "hate violence" means any act of physical intimidation or physical harassment, physical force or physical violence, or the

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threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, disability, or political or religious beliefs of that person or group.

(d) This section does not apply to the governing board of any private postsecondary institution receiving funds for student financial assistance with a full-time enrollment of less than 1,000 students.

(e) This section shall apply to a campus of one of the public postsecondary educational systems identified in subdivision (a) only if that campus has a full-time equivalent enrollment of more than 1,000 students.

(f) Notwithstanding any other provision of this section, this section shall not apply to the California Community Colleges unless and until the Legislature makes funds available to the California Community Colleges for the purposes of this section.

SEC. 4. Section 87010 of the Education Code is amended to read:

§ 87010. "Sex offense," as used in Sections 87405, 88022, and 88123, means any one or more of the offenses listed below:

(a) Any offense defined in Section 261.5, 266, 267, 285, 286, 288, 288a, 647.6, or former Section 647a, *paragraph (2) or (3) of subdivision (a) of Section 261, paragraph (1) or (2) of subdivision (a) of Section 262*, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in those sections was committed prior to September 15, 1961, to the same extent that such an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision 1 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if the offense was committed prior to September 15, 1961, to the same extent that such an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any offense committed or attempted in any other state *that*, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

SEC. 5. Section 352.1 of the Evidence Code is amended to read:

§ 352.1. In any criminal proceeding under Section 261, 262, or 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 288a of the Penal Code, or in any criminal proceeding under subdivision (c) of Section 286 or subdivision (c) of Section

288a of the Penal Code in which the defendant is alleged to have compelled the participation of the victim by force, violence, duress, menace, or threat of great bodily harm, the district attorney may, upon written motion with notice to the defendant or the defendant's attorney, if he or she is represented by an attorney, within a reasonable time prior to any hearing, move to exclude from evidence the current address and telephone number of any victim at *the* hearing.

The court may order that evidence of the victim's current address and telephone number be excluded from any hearings conducted pursuant to *the* criminal proceeding if the court finds that the probative value of *the* evidence is outweighed by the creation of substantial danger to the victim.

Nothing in this section shall abridge or limit the defendant's right to discover or investigate the information.

SEC. 6. Section 782 of the Evidence Code is amended to read:

§ 782. (a) In any prosecution under Section 261,262, 264.1, 286, 288, 288a, 288.5, or 289 of the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit any crime defined in any of those sections, except where the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4, or in a state prison, as defined in Section 4504, if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness under Section 780, the following procedure shall be followed:

(1) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of the complaining witness.

(2) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated.

(3) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at *the* hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.

(4) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant pursuant to Section 780, and is not inadmissible pursuant to Section 352 of this code, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(b) As used in this section, "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this section.

SEC. 7. Section 1103 of the Evidence Code is amended to read:

§ 1103. (a) In a criminal action, evidence of the character or a trait of character (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct) of the victim of the crime for which the defendant is being prosecuted is not made inadmissible by Section 1101 if the evidence is:

(1) Offered by the defendant to prove conduct of the victim in conformity with the character or trait of character.

(2) Offered by the prosecution to rebut evidence adduced by the defendant under paragraph (1).

(b) In a criminal action, evidence of the defendant's character for violence or trait of character for violence (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct) is not made inadmissible by Section 1101 if the evidence is offered by the prosecution to prove conduct of the defendant in

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in conformity with the character or trait of character and is offered after evidence that the victim had a character for violence or a trait of character tending to show violence has been adduced by the defendant under paragraph (1) of subdivision (a).

(b) (1) Notwithstanding any other provision of this code to the contrary, and except as provided in this subdivision, in any prosecution under Section 261, 262, or 263 of the Penal Code, or under Section 286, 288a, or 289 of the Penal Code, or an assault with intent to commit, attempt to commit, or conspiracy to commit a crime defined in any of *those sections*, except where the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4, or in a state prison, as defined in Section 4504, opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness' sexual conduct, or any of *that* evidence, is not admissible by the defendant in order to prove consent by the complaining witness.

(2) Paragraph (1) shall not be applicable to evidence of the complaining witness' sexual conduct with the defendant.

(3) If the prosecutor introduces evidence, including testimony of a witness, or the complaining witness as a witness gives testimony, and that evidence or testimony relates to the complaining witness' sexual conduct, the defendant may cross-examine the witness who gives the testimony and offer relevant evidence limited specifically to rebuttal of the evidence introduced by the prosecutor or given by the complaining witness.

Nothing in this subdivision shall be construed to make inadmissible any evidence offered to attack the credibility of the complaining witness as provided in Section 782.

(5) As used in this section, "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this subdivision.

SEC. 8. Section 358 of the Family Code is amended to read:

§ 358. (a) The State Department of Health Services shall prepare and publish a brochure which shall contain the following:

(1) Information concerning the possibilities of genetic defects and diseases and contain a listing of centers available for the testing and treatment of genetic defects and diseases.

(2) Information concerning acquired immune deficiency syndrome (AIDS) and the availability of testing for antibodies to the probable causative agent of AIDS.

(3) *Information concerning domestic violence, including resources available to victims and a statement that physical, emotional, psychological, and sexual abuse, and assault and battery, are against the law.*

(b) The State Department of Health Services shall make the brochures available to county clerks who shall distribute a copy of the brochure to each applicant for a marriage license, including applicants for a confidential marriage license and notary publics receiving a confidential marriage license pursuant to Section 503.

(c) Each notary public authorizing a confidential marriage under Section 503 shall distribute a copy of the brochure to the applicants for a confidential marriage license.

(d) To the extent possible, the State Department of Health Services shall seek to combine in a single brochure all statutorily required information for marriage license applicants.

SEC. 8.5. Brochures containing the information required by Section 8 of this act, which amends Section 358 of the Family Code, shall not be required to be prepared and published until the existing supply of brochures is depleted.

SEC. 9. Section 3021 of the Family Code is amended to read:

*Italics indicate changes or additions. * * * indicate omissions.*

§ 3021. This part applies in any of the following:

- (a) A proceeding for dissolution of marriage.
- (b) A proceeding for nullity of marriage.
- (c) A proceeding for legal separation of the parties.
- (d) An action for exclusive custody pursuant to Section 3120.
- (e) A proceeding to determine custody or visitation in a proceeding pursuant to the Domestic Violence Prevention Act (Division 10 (commencing with Section 6200)).

Nothing in this subdivision shall be construed to authorize custody or visitation rights to be granted to any nonparent party to a Domestic Violence Prevention Act proceeding. As used in this section, "nonparent" does not include a biological parent, alleged or presumed parent, adoptive parent, pending adoptive parent, foster parent, or step parent. By amending this subdivision during the 1995-96 Regular Session, it is the intent of the Legislature to restate existing law, and to clarify that nonparent parties may not seek a determination of custody or visitation rights through a Domestic Violence Prevention Act proceeding, but only through a proceeding for dissolution or legal separation, or an action to determine paternity or a petition for guardianship in accordance with the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).

(f) A proceeding to determine custody or visitation in an action pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).

SEC. 11. Section 6254 of the Government Code is amended to read:

§ 6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

- (a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.
- (b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.
- (c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.
- (d) Contained in or related to:
 - (1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.
 - (2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).
 - (3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).
 - (4) Information received in confidence by any state agency referred to in paragraph (1).
- (e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.
- (f) Records of complaints to, or investigations conducted by, or records of intel-

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information or security procedures of, the office of the Attorney General and Department of Justice, and any state or local police agency, or any investigatory files compiled by any other state or local police agency, or any investigatory security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the persons involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative of an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of an act caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, terrorism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, if the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflect the analytical conclusions of the investigating officer.

Notwithstanding the provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that the disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a

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licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided that public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public data base maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective

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bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695), and Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

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(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695), or Part 6.5 (commencing with Section 12700), of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (3).

(w) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 14 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments thereto, until the contract or amendments to a contract is open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of the Department of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or, financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 12. Section 12970 of the Government Code is amended to read:

§ 12970. (a) If the commission finds that a respondent has engaged in any unlawful practice under this part, it shall state its findings of fact and determination and shall issue and cause to be served on the parties an order requiring the respondent to cease and desist from the unlawful practice and to take action, including, but not limited to, any of the following:

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- (1) The hiring, reinstatement or upgrading of employees, with or without backpay.
- (2) The admission or restoration to membership in any respondent labor organization.
- (3) The payment of actual damages as may be available in civil actions under this part, except as otherwise provided in this section. Actual damages include, but are not limited to, damages for emotional injuries if the accusation or amended accusation prays for those damages. Actual damages awarded under this section for emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses shall not exceed, in combination with the amounts of administrative fines imposed pursuant to subdivision (c), fifty thousand dollars (\$50,000) per aggrieved person per respondent.
- (4) Notwithstanding paragraph (3), the payment of actual damages up to one hundred fifty thousand dollars (\$150,000) assessed against a respondent for a violation of Section 51.7 of the Civil Code, as an unlawful practice under this part.
- (5) Affirmative or prospective relief to prevent the recurrence of the unlawful practice.

(6) A report to the commission as to the manner of compliance with the commission's order.

(7) An unlawful practice under this part alone is not sufficient to sustain an award of actual damages pursuant to this section. The department is required to prove, by a preponderance of the evidence, that an aggrieved person has sustained actual injury. In determining whether to award damages for emotional injuries, and the amount of award for these damages, the commission shall consider relevant evidence of the effects of discrimination on the aggrieved person with respect to any or all of the following:

- (1) Physical and mental well-being.
- (2) Personal integrity, dignity, and privacy.
- (3) Ability to work, earn a living, and advance in his or her career.
- (4) Personal and professional reputation.
- (5) Family relationships.
- (6) Access to the job and ability to associate with peers and coworkers.

The commission shall also consider the duration of the emotional injury, and whether that injury was caused or exacerbated by an aggrieved person's knowledge of a respondent's failure to respond adequately to, or to correct, the discriminatory practice or by the egregiousness of the discriminatory practice.

(c) In addition to the foregoing, in order to vindicate the purposes and policies of this part, the commission may assess against the respondent, if the accusation or amended accusation so prays, an administrative fine per aggrieved person per respondent, the amount of which shall be determined in accordance with the combined amount limitation of paragraph (3) of subdivision (a).

(d) In determining whether to assess an administrative fine pursuant to this section, the commission shall find that the respondent has been guilty of oppression, fraud, or malice, expressed or implied, as required by Section 3294 of the Civil Code. In determining the amount of fines, the commission shall consider relevant evidence of, including, but not limited to, the following:

- (1) Willful, intentional, or purposeful conduct.
- (2) Refusal to prevent or eliminate discrimination.
- (3) Conscious disregard for the rights of employees.
- (4) Commission of unlawful conduct.
- (5) Intimidation or harassment.
- (6) Conduct without just cause or excuse.

*Italics indicate changes or additions. * * * indicate omissions.*

(7) Multiple violations of the Fair Employment and Housing Act.

The moneys derived from an administrative fine assessed pursuant to this subdivision shall be deposited in the General Fund. No administrative fine shall be assessed against a public entity. The commission shall have no authority to award punitive damages as a remedy for a finding of employment discrimination.

(e) In addition to the foregoing, in order to vindicate the purposes and policies of this part, the commission may assess against the respondent if the accusation or amended accusation so prays, a civil penalty of up to twenty-five thousand dollars (\$25,000) to be awarded to a person denied any right provided for by Section 51.7 of the Civil Code, as an unlawful practice prohibited under this part.

(f) If the commission finds the respondent has engaged in an unlawful practice under this part, and the respondent is licensed or granted a privilege by an agency of the state to do business, provide a service, or conduct activities, and the unlawful practice is determined to have occurred in connection with the exercise of that license or privilege, the commission shall provide the licensing or privilege granting agency with a copy of its decision or order.

(g) If the commission finds that a respondent has not engaged in an unlawful practice under this part, the commission shall state its findings of fact and determination and issue and cause to be served on the parties an order dismissing the accusation as to that respondent.

(h) Any findings and determination made, or any order issued pursuant to this section shall be written and shall indicate the identity of the members of the commission who participated herein.

(i) Any order issued by the commission shall have printed on its face references to the rights of appeal of any party to the proceeding to whose position the order is adverse.

(j) If the commission finds that a respondent has engaged in an unlawful practice under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 262, 286, 288, 288a, or 289 of the Penal Code, the commission, with the consent of the complainant, shall provide the local district attorney's office with a copy of its decision and order.

(k) Notwithstanding Section 12960, if the commission finds that a respondent has engaged in unlawful discrimination in housing under Section 12948, the remedies afforded in Section 12987 or any other provision in this part pertaining to housing discrimination, shall apply.

SEC. 13. Section 13960 of the Government Code is amended to read:

§ 13960. As used in this article:

(a) (1) "Victim" means a resident of the State of California, a member of the military stationed in California, or a family member living with a member of the military stationed in California who sustains injury or death as a direct result of a crime.

(2) "Derivative victim" means a resident of California who is one of the following:

(A) At the time of the crime was the parent, sibling, spouse, or child of the victim.

(B) At the time of the crime was living in the household of the victim.

(C) A person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in subparagraph (A).

(D) Is another family member of the victim, including the victim's fiancé, and witnessed the crime.

(b) "Injury" includes physical or emotional injury, or both. However, this article does not apply to emotional injury unless that injury is incurred by a victim who

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sustains physical injury or threat of physical injury. For purposes of this article, a crime committed in violation of Section 261, 262, 270, 270a, 270c, 271, 273a, 273b, 273d, 285, 286, 288, 288.1, 288a, or 289 of the Penal Code, who sustains emotional injury is presumed to have sustained physical injury.

"Crime" means a crime or public offense that would constitute a misdemeanor if committed in California by a competent adult *that* results in injury to a resident of this state, including a crime or public offense, wherever it may take place, if the resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle *that* results in injury or death constitutes a crime for the purposes of this article, except that a crime shall include any of the following:

- (1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.
 - (2) Injury or death caused by a driver in violation of Section 20001 of the Vehicle Code.
 - (3) Injury or death caused by a person who is under the influence of any alcoholic beverage or drug.
 - (4) Injury or death caused by a driver of a motor vehicle in the immediate act of committing a crime in which he or she knowingly and willingly participated.
- For the purpose of the limitations imposed by this article, a crime shall mean one or more series of related acts arising from the same course of conduct with the same perpetrator or perpetrators.

"Pecuniary loss" means the following expenses for which the victim or derivative victim has not been and will not be reimbursed from any other source:

- (1) The amount of medical or medical-related expenses incurred by the victim, including in-patient psychological or psychiatric expenses, and including, but not limited to, eyeglasses, hearing aids, dentures, or any prosthetic device taken, lost, or destroyed during the commission of the crime, or the use of which became necessary as a direct result of the crime.
- (2) The amount of out-patient mental health counseling related expenses *that* became necessary as a direct result of the crime. These counseling services may be provided by a person licensed as a clinical social worker or a person licensed as a marriage, family, and child counselor practicing within the scope of licensure, or within the scope of his or her respective practice acts.
- (3) The loss of income that the victim or the loss of support that the derivative victim has incurred or will incur as a direct result of an injury or death.
- (4) Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing recognized by state law.
- (5) The amount of family psychiatric, psychological, or mental health counseling expenses necessary as a direct result of the crime for the successful treatment of the victim, provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime.

- (e) "Board" means the State Board of Control.
- (f) "Victim centers" means those centers as specified in Section 13835.2 of the Penal Code.
- (g) "Peer counselor" means a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling in consultation with a mental health practitioner licensed within the State of California.

SEC. 14. Section 19702 of the Government Code is amended to read:

*Italics indicate changes or additions. * * * indicate omissions.*

§ 19702. (a) A person shall not be discriminated against under this part because of sex, race, religious creed, color, national origin, ancestry, marital status, physical disability, or mental disability. A person shall not be retaliated against because he or she has opposed any practice made an unlawful employment practice, or made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. For purposes of this article, "discrimination" includes harassment. This subdivision is declaratory of existing law.

(b) As used in this section, "physical disability" includes, but is not limited to, impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.

(c) As used in this section, "mental disability" includes, but is not limited to, any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Notwithstanding subdivisions (b) and (c), if the definition of disability used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (b) or (c), then that broader protection shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (b) and (c). The definitions of subdivisions (b) and (c) shall not be deemed to refer to or include conditions excluded from the federal definition of "disability" pursuant to Section 511 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12211).

(e) If the board finds that a person has engaged in discrimination under this part, and it appears that this practice consisted of acts described in Section 243.4, 261, 262, 286, 288, 288a, or 289 of the Penal Code, the board, with the consent of the complainant, shall provide the local district attorney's office with a copy of its decision and order.

(f) If the board finds that discrimination has occurred in violation of this part, the board shall issue and cause to be served on the appointing authority an order requiring the appointing authority to cause the discrimination to cease and desist and to take any action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without backpay, and compensatory damages, which, in the judgment of the board, will effectuate the purposes of this part. Consistent with this authority, the board may establish rules governing the award of compensatory damages. The order shall include a requirement of reporting the manner of compliance.

(g) Any person claiming discrimination within the state civil service may submit a complaint which shall be in writing and set forth the particulars of the alleged discrimination, the name of the appointing authority, the persons alleged to have committed the unlawful discrimination, and any other information that may be required by the board. The complaint shall be filed with the appointing authority or, in accordance with board rules, with the board itself.

(h) Complaints shall be filed within one year of the alleged unlawful discrimination or the refusal to act in accordance with this section, except that this period may be extended for not to exceed 90 days following the expiration of that year, if a person allegedly aggrieved by unlawful discrimination first obtained knowledge of the facts of the alleged unlawful discrimination after the expiration of one year from the date of its occurrence. Complaints of discrimination in adverse actions or rejections on probation shall be filed in accordance with Sections 19175 and 19575.

(i) When an employee of the appointing authority refuses, or threatens to refuse, to cooperate in the investigation of a complaint of discrimination, the appointing authority may seek assistance from the board. The board may provide for direct investigation or hearing of the complaint, the use of subpoenas, or any other action which will effect the purposes of this section.

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15. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony. Upon conviction thereof shall be punished by imprisonment in the state prison for one, two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000), or by both.

It is not necessary to constitute cohabitation as the term is used in this section.

As used in this section, "traumatic condition" means a condition of the body, including a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural parent under Sections 7611 and 7612 of the Family Code.

In any case in which a person is convicted of violating this section and probation is granted, the court shall require participation in a batterer's treatment program as a condition of probation, as specified in Section 1203.097.

If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted under subdivision (a) for an offense that occurred within seven years of the date of the second conviction, *the person shall be punished pursuant to subdivision (b) of Section 273.56.*

(b) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted of two or more violations of subdivision (a) for offenses that occurred within seven years of the most recent conviction, *the person shall be punished pursuant to subdivision (b) of Section 273.56.*

(h) If probation is granted upon conviction of a violation of subdivision (a), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

- (1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars (\$5,000), pursuant to Section 1203.097.
- (2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, *as operative on or before August 2, 1995, or Section 1202.4*, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 16. Section 679.04 is added to the Penal Code, to read:

*Italics indicate changes or additions. * * * indicate omissions.*

§ 679.04. A victim of sexual assault, as defined in subdivisions (a) and (b) of Section 11165.1, or spousal rape has the right to have advocates present at any evidentiary, medical, or physical examination or interview by law enforcement authorities or defense attorneys. As used in this section, "advocates" means a sexual assault victim counselor, as defined in Section 1035.2 of the Evidence Code, and at least one additional support person chosen by the victim.

SEC. 17. Section 1732 of the Welfare and Institutions Code is amended to read

§ 1732. No person convicted of violating Section 261, 262, or 264.1, subdivision (b) of Section 288, Section 289, or of sodomy or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 288a of the Penal Code committed when that person was 18 years of age who has previously been convicted of any such felony shall be committed to the Youth Authority. This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC. 18. Section 1767.1 of the Welfare and Institutions Code is amended to read:

§ 1767.1. At least 30 days before the Youthful Offender Parole Board meets to review or consider the parole of any person who has been committed to the control of the Department of the Youth Authority for the commission of any offense described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707, or for the commission of an offense in violation of *paragraph (2) of subdivision (a) of Section 262 or* paragraph (3) of subdivision (a) of Section 261 of the Penal Code, the board shall send written notice of the hearing to each of the following persons: the judge of the court *that* committed the person to the authority, the attorney for the person, the district attorney of the county from which the person was committed, and the law enforcement agency that investigated the case. The Youthful Offender Parole Board shall also send a progress report regarding the ward, prepared by the Department of the Youth Authority, to the judge of the court that committed the person at the same time it sends the written notice to the judge.

Each of the persons so notified shall have the right to submit a written statement to the board at least 10 days prior to the scheduled hearing for the board's consideration at the hearing. Nothing in this subdivision shall be construed to permit any person so notified to attend the hearing. With respect to the parole of any person over the age of 18 years, the presiding officer shall state findings and supporting reasons for the decision of the board at the hearing. The findings and reasons shall be reduced to writing, and shall be made available for inspection by members of the public no later than 30 days from the date of the hearing.

SEC. 19. Section 1781 of the Welfare and Institutions Code is amended to read:

§ 1781. Upon the filing of a petition under this article, the court shall notify the person whose liberty is involved, and if he *or she* is a minor, his *or her* parent or guardian if practicable, of the application and shall afford him *or her* an opportunity to appear in court with the aid of counsel and of process to compel attendance of witnesses and production of evidence. When he *or she* is unable to provide his *or her* own counsel, the court shall appoint counsel to represent him *or her*.

In the case of any person who is the subject of such a petition and who is under the control of the Youth Authority for the commission of any offense of rape in violation of *paragraph (1) or (2) of subdivision (a) of Section 262 or* subdivision (2) or subdivision (3) of *Section 261 of the Penal Code*, or murder, the Youthful Offender Parole Board shall send written notice of the petition and of any hearing set

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petition to each of the following persons: the attorney for the person who is the subject of the petition, the district attorney of the county from which the person was committed, and the law enforcement agency that investigated the case. The court shall also send written notice to the victim of the rape or the next of kin of the person murdered if he or she requests notice from the board and keeps it apprised of the person's current mailing address. Notice shall be sent at least 30 days before the hearing.

20. Section 6500 of the Welfare and Institutions Code is amended to read:

6500. On and after July 1, 1971, no mentally retarded person may be committed to the State Department of Developmental Services pursuant to this article, unless the person or she is a danger to himself or herself or others. For the purposes of this article, dangerousness to self or others shall be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Section 1366 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code or if the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (4) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 203.1, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act that poses a serious threat of bodily harm to another person.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event * * * subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment. In any proceedings conducted under the authority of this article the alleged mentally retarded person shall be informed of his or her right to counsel by the court; and if the person does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for that legal service if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person is mentally retarded and a danger to himself or herself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel.

SEC. 21. Section 8103 of the Welfare and Institutions Code is amended to read:

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

*Italics indicate changes or additions. * * * indicate omissions.*

to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

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

(e) (1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereaf-

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court which imposed the conservatorship found that possession of a firearm or other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and upon placing any firearm or any other deadly weapon possession by the person, the court shall immediately notify the person of this prohibition.

The court shall immediately notify the Department of Justice of the court ordering the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date specified in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

All information provided to the Department of Justice pursuant to paragraph (1) shall be kept confidential, separate, and apart from all other records maintained by the Department of Justice, and shall be used only to determine eligibility to purchase or possess firearms or other deadly weapons. Any person who knowingly furnishes that information for any other purpose is guilty of a misdemeanor. All the information provided to the Department of Justice pursuant to paragraph (1) shall be destroyed upon receipt by the Department of Justice of the termination of conservatorship as to that person pursuant to paragraph (2).

(2) No person who has been (A) taken into custody as provided in Section 5150, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the department, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the

district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

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

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

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

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

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

(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke paragraph (4) of subdivision (f).

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

Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision

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(g). However, a report shall not be filed for persons who are discharged within 30 days after the date of admission.

Every person who owns or possesses or has under his or her custody or control, purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section *shall be punished* by imprisonment in the state prison* * * or in a county jail for not more than one year* * *.

"Deadly weapon," as used in this section, has the meaning prescribed by Section 100.

SEC. 22. Section 15610.63 of the Welfare and Institutions Code is amended to read:

15610.63. "Physical abuse" means any of the following:

(1) Assault, as defined in Section 240 of the Penal Code.

(2) Battery, as defined in Section 242 of the Penal Code.

(3) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(4) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(5) Sexual assault, that means any of the following:

(a) Sexual battery, as defined in Section 243.4 of the Penal Code.

(b) Rape, as defined in Section 261 of the Penal Code.

(c) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) *Spousal rape, as defined in Section 262 of the Penal Code.*

(5) Incest, as defined in Section 285 of the Penal Code.

(6) Sodomy, as defined in Section 286 of the Penal Code.

(7) Oral copulation, as defined in Section 288a of the Penal Code.

(8) Penetration of a genital or anal opening by a foreign object, as defined in Section 289 of the Penal Code.

(9) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(1) For punishment.

(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions were given.

(3) For any purpose not authorized by the physician and surgeon.

SEC. 23. Section 2.5 of this bill incorporates amendments to Section 44237 of the Education Code proposed by both this bill and Assembly Bill 2738. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 44237 of the Education Code, and (3) this bill is enacted after Assembly Bill 2738, in which case Section 2 of this bill shall not become operative.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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CHAPTER 578

(Assembly Bill No. 1587)

An act to amend Section 8103 of the Welfare and Institutions Code, relating to firearms, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1999. Filed with Secretary of State September 29, 1999.]

To the Members of the Assembly:

On this date I have signed Assembly Bill No. 1587.

I would have preferred that a 1997 Sacramento Superior Court decision effectively overturning previous law prohibiting a person from owning a gun for five years would have been appealed by the former Attorney General. Since no appeal was taken, I have no choice but to sign this measure.

AB 1587 allows the state to persuade a judge that a person who poses a threat to public safety may not purchase or possess a gun without first demonstrating that the person will not be likely to use a firearm in a safe and lawful manner.

Sincerely,

Gray Davis, Governor

LEGISLATIVE COUNSEL'S DIGEST

AB 1587, Scott. Firearms.

(1) Existing law provides that no person who has been taken into custody or admitted to a designated facility because that person is a danger to himself, herself, or others shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of 5 years after the person is released from the facility unless, upon petition to the superior court, the person is found by a preponderance of the evidence likely to use firearms in a safe and lawful manner.

This bill instead would provide that the person may request a hearing from the court and provide that the People of the State of California shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner. If the court at the hearing finds that the people have not met their burden, or the district attorney declines or fails to go forward at the hearing, the court would be required to order that the person not be subject to the 5-year prohibition on the ownership, control, receipt, possession, or purchase of firearms.

(2) Existing law provides that no person who has been certified for intensive treatment related to mental disorder or impairment by chronic alcoholism may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of 5 years unless upon petition to the superior court the person is found by a preponderance of the evidence likely to use firearms in a safe and lawful manner, as described above.

This bill would permit the person to petition the superior court of his or her county of residence that he or she may own, possess, control, receive, or purchase a firearm and would prescribe the procedures for a hearing on the petition.

(3) This bill would declare that it is to take effect immediately, as an urgency measure.

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

SECTION 1. Section 8103 of the Welfare and Institutions Code is amended to read:

§ 8103. (a)(1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or

*Italics indicate changes or additions. * * * indicate omissions.*

9 REG. SESSION

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who has been adjudicated to be a mentally disordered sex offender, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

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

(b)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

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

(e)(1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is

gravely disabled a purchase or receive possession, custody or conservatorship in which imposed the weapon by the person placing any person weapon possession

(2) The court shall place the person weapon possession the date the conservatorship terminated. If the notice to the Department of Justice of a firearm or any other safety of the person Justice.

(3) All information shall be kept confidential *Department of Justice* possess firearms information for a notice of the term

(f)(1) No person because that person meaning of Sections 5151 and own, possess, control or purchase any facility. A person control, receive, or a firearm if the supervisor *State of California*

(2) For each person date of admission. *the Department of Justice* identity of the person facility.

Any report prepared the court proceed the person to own

(3) Prior to, or to this subdivision receiving, or purchase shall inform the person in this subdivision purchase a firearm *hearing. The Department a hearing at the court unless the person*

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gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person, the court shall notify the person of this prohibition.

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

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

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

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

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

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

(4) *The Department of Justice shall provide the form upon request to any person described in paragraph (1). The Department of Justice shall also provide the form to the*

*Italics indicate changes or additions. * * * indicate omissions.*

superior court in each county. A person described in paragraph (1) may make a single request for a hearing at any time during the five-year period. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) Any person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. *** The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 30 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 14 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county mental health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section.

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

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

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

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

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(g)(1) No pers 5260, or 5270.1: possess, control,

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(h) For all p Department of persons under subdivision (f).

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

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

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

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

(4) *Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition, and the county mental health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.*

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

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

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment in the state prison or in a county jail for not more than one year.

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

SEC. 2. The provisions of this bill shall not go into effect until 30 days after the Department of Justice provides to the designated facilities, forms prescribed in paragraphs (2) and (3) of subdivision (f) of Section 8103 of the Welfare and Institutions Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public safety by ensuring that firearms are kept out of the hands of mentally and emotionally disturbed persons, it is necessary that this act take effect immediately.

EXPLANATORY NOTES ASSEMBLY BILL 1587:

W & IC § 8103. (1) Substituted "Department of Justice" for "department" the second time it appears in subds (e)(3) and (f)(2); (2) substituted "paragraph (5), found that the People of the State of California have not met their burden pursuant to paragraph (6)" for "paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner" at the end of subd (f)(1); (3) amended subd (f)(3) by (a) substituting "request a hearing from" for "petition" in the second sentence; and (b) adding the third through fifth sentences; (4) added subd (f)(4); (5) redesignated former subd (f)(4) to be subd (f)(5); (6) amended the first sentence of subd (f)(5) by (a) substituting "who has requested a hearing from" for "may petition"; and (b) adding "shall be given a hearing" at the end of the sentence; (7) deleted "At the time the petition is filed," at the beginning of the second sentence; (8) substituted "plaintiff" for "respondent" in the third sentence of subd (f)(5); (9) substituted "hearing" for "petition" in the fourth and tenth sentences of subd (f)(5); (10) substituted "the request for a hearing" for "receiving notice of the petition" in the fifth sentence of subd (f)(5); (11) substituted the seventh and eighth sentences of subd (f)(5) for the former seventh sentence of subd (f)(5) which read: "The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court."; (12) added the ninth sentence of subd (f)(5); (13) substituted subds (f)(6) and (f)(7) for the former last three sentences of subd (f)(5) which read: "If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information."; (14) added subd (f)(8); (15) redesignated former subd (f)(5) to be subd (f)(9); and (16) substituted subd (g)(4) for former subd (g)(4) which read: "(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke paragraph (4) of subdivision (f)."

An act to amend missing persons.

[Approved by Gov

SB 6, Rainey. F

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SECTION 1. S

§ 14205. (a) A including any telep and shall give prior to crimes involving person or runaway, California Highway making the report o having jurisdiction telephone number where the person w but not limited to, take the report and person. If the missi is at risk, the depart within its jurisdic

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enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of three dollars and fifty-eight cents (\$3.58) per hour. This section shall apply to isolated apprentices, as defined in Section 3074 of the Labor Code, for which alternative methods of instruction are provided.

(b) With respect to academy training conducted under the California Firefighter Joint Apprenticeship Program, each 50-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code at a firefighter apprenticeship training academy shall be reimbursed at the rate of five dollars and seventy-five cents (\$5.75) per hour.

(c) This section shall remain in effect only until July 1, 1987, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after July 1, 1987, pursuant to Section 9611 of the Government Code, Section 8152 of the Education Code, as amended by Section 1 of Chapter 1068 of the Statutes of 1983, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. The sum of one hundred fifty thousand dollars (\$150,000) is hereby appropriated from the General Fund to the Controller for the purposes of this act and shall be allocated as follows:

(a) One hundred thousand dollars (\$100,000) to the Chancellor of the California Community Colleges.

(b) Fifty thousand dollars (\$50,000) to the Superintendent of Public Instruction.

CHAPTER 1324

An act to amend Sections 5328, 8100, 8101, 8102, and 8103 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 30, 1985. Filed with Secretary of State October 1, 1985.]

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

SECTION 1. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information

and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish

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or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given

knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke the authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 1.3. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be

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(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

Date .

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is

identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the

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agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is

declaratory of, the preexisting law.

SEC. 1.5. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

As a condition of receiving services (person), I, _____, such persons as possible as determined by the board and I further agree to the course of such services and I have received services which are not identifiable.

I recognize that the information of the Welfare and Institutions Code shall be disclosed only in any of the following cases:

(f) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(g) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(h) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(i) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(j) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(k) Upon the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(l) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(m) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(n) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(o) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(p) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(q) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

Date _____

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain

confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke the authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

(s) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the

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The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 1.7. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the

requirement that all researchers shall sign an oath of confidentiality as follows:

Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the

person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) To the agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as defined in Section 102(7) of the federal act. The agency shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from, or on behalf of, the person and the person consents to the disclosure to the extent of his or her capabilities.

(2) The person does not have a parent, guardian, or conservator, or the state or the designee of the state is the person's guardian or conservator.

(s) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

(t) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

SEC. 2. Section 8100 of the Welfare and Institutions Code is amended to read:

8100. No person described in Section 8103 or who is a mental patient in any hospital or institution or on leave of absence from any hospital or institution shall own or have in his or her possession or under his or her custody or control any firearms whatsoever or any other deadly weapon.

"Deadly weapon," as used in this section and Sections 8101, 8102, and 8103 means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

SEC. 3. Section 8101 of the Welfare and Institutions Code is amended to read:

8101. Any person who shall knowingly supply, sell, give, or allow possession or control of any firearm or deadly weapon to any person described in Section 8100 or 8103 shall be punishable by imprisonment in a state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment. "Deadly weapon," as used in this section has the meaning prescribed by Section 8100.

SEC. 3.5. Section 8102 of the Welfare and Institutions Code is amended to read:

8102. Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly

weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

The firearm or other deadly weapon shall not be released from the custody of the law enforcement agency or peace officer except upon an order of the superior court based upon a finding that the person may possess the firearm or other deadly weapon without endangering others.

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

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

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

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in

paragraph (1).

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

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

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

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

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

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

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court shall immediately notify the Department of Justice.

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

(f) Every person who possesses or has under his or her custody or control any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

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

SEC. 5. (a) Section 1.3 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and SB 1088. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 5328 of the Welfare and Institutions Code, and (3) AB 1750 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1088, in which case Sections 1, 1.5, and 1.7 of this bill shall not become operative.

(b) Section 1.5 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and AB 1750. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 5328 of the Welfare and Institutions Code, (3) SB 1088 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1750 in which case Sections 1, 1.3, and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by this bill, SB 1088, and AB 1750. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1986, (2) all three bills amend Section 5328 of the Welfare and Institutions Code, (3) this bill is enacted after SB 1088 and AB 1750, in which case Sections 1, 1.3, and 1.5 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Vehicle Code, or any commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight of 6000 pounds or less.

13652. (a) Any person who intentionally violates any provision of this chapter or any regulation promulgated pursuant thereto is guilty of an infraction, and, upon conviction, shall be punished by a fine not to exceed fifty dollars (\$50) for each day that the person violates the provision or regulation.

(b) The failure of an owner or manager of a service station to have adequate water and air facilities available for use by the public, for five consecutive working days, constitutes a rebuttable presumption affecting the burden of proof that the owner or manager has intentionally violated the provisions of this chapter.

(c) Notwithstanding any other provision of this chapter, no person shall be guilty of the infraction specified in subdivision (a) if that person, within seven days after receiving notification from the city attorney, district attorney, or Attorney General of a violation of any provision of this chapter, makes whatever changes are necessary to comply with the requirements of this chapter.

13653. Notwithstanding any other provision of law, this chapter may be enforced by the city attorney, district attorney, or Attorney General.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code, because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1562

An act to amend Sections 12020, 12054, 12071, 12072, 12076, 12096, 12231, 12250, 12305, 12306, 12424, and 12435 of the Penal Code, and to amend Sections 5357, 8101, 8103, and 8104 of the Welfare and Institutions Code, relating to firearms, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:
12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a

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firearm, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition or who carries concealed upon his person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) shall not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when such is authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and is not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, the term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess such weapons pursuant to the Gun Control Act of 1968 (P.L. 90-618; 82 Stat. 1213), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths inch of the body.

(e) Knives carried from the waist of this section.

SEC. 1.1. Section 12020. (a) Any person who manufactures or exposes for sale a wallet gun, any firearm, any ammunition, any bullet, any instrument or weapon, any slungshot, billy, metal knuckles, or any explosive substance concealed upon a person, is guilty of a felony, and upon conviction shall be imprisoned in the county jail not exceeding one year or in the county jail not exceeding one year as that term is used in this section.

(b) Subdivision (1) The manufacture of cartridges, of saw film or television Department of Section 12095) of

(2) The possession of a weapon which holds a magazine for self-defense.

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(4) Any anti-firearm" means fire or conventional manufactured percussion cap, whether actual also any firearm 1898, for which States and is commercial tra

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(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 1.1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

- (1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.
- (2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from

possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

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SEC. 3. Sect 12071. (a) county, or cit grant licenses county, or cit capable of bei it shall be in t for not more the following be subject to (1) The b designated ir (2) The l authority, sh seen.

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(4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12054 of the Penal Code is amended to read:
12054. Each applicant for a new license or for the renewal of a license shall pay at the time of filing his application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice for the direct costs of furnishing the report required by Section 12052. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget. The officer receiving the application and the fee shall transmit the fee, with the fingerprints if required, to the Department of Justice. The licensing authority of any city or county may charge an additional fee, not to exceed three dollars (\$3), for processing any such application, and shall transmit such additional fee, if any, to the city or county treasury.

SEC. 3. Section 12071 of the Penal Code is amended to read:
12071. (a) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant licenses permitting the licensee to sell at retail within the city, county, or city and county, pistols, revolvers, and other firearms, capable of being concealed upon the person. If a license is granted, it shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue, and be subject to the following conditions, for breach of any of which the license shall be subject to forfeiture.

(1) The business shall be carried on only in the building designated in the license.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No pistol or revolver shall be delivered:

(A) Within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped.

(C) Unless the purchaser either is personally known to the seller or shall present clear evidence of his or her identity.

(D) Whenever the dealer is notified by the Department of Justice that a purchaser is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(b) As used in this article, "clear evidence of his or her identity" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity of the purchaser.

SEC. 4. Section 12072 of the Penal Code is amended to read:

12072. No person, corporation or dealer shall sell, deliver, or otherwise transfer any pistol, revolver, or other firearm capable of being concealed upon the person to any person whom he has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from owning or possessing these firearms, nor shall any dealer sell, deliver or transfer any firearm capable of being concealed upon the person, to any person under the age of 21 years. In no event shall any such firearm be delivered to the purchaser within 15 days of the application for the purchase thereof, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later and when delivered such firearm shall be securely wrapped and shall be unloaded. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer any such firearm to any other person within this state who is not personally known to the vendor. Any violation of the provisions of this section is a misdemeanor.

SEC. 5. Section 12076 of the Penal Code is amended to read:

12076. The purchaser of any firearm capable of being concealed upon the person shall be required to present clear evidence of his or

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her identity, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date, and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice at Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

(c) If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d) or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the pistol, revolver, or other firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee, not to exceed the actual processing costs of the department, sufficient to reimburse the department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section.

SEC. 3. Section 5357 of the Welfare and Institutions Code is amended to read:

5357. All conservators of the estate shall have the general powers specified in Chapter 6 (commencing with Section 2400) of Part 4 of

Division 4 of the Probate Code and shall have such additional powers specified in Article 11 (commencing with Section 2590) of Chapter 6 of Part 4 of Division 4 of the Probate Code as the court may designate. The report shall set forth which, if any, of the additional powers it recommends. The report shall also recommend for or against the imposition of each of the following disabilities on the proposed conservatee:

(a) The privilege of possessing a license to operate a motor vehicle. If the report recommends against this right and if the court follows the recommendation, the agency providing conservatorship investigation shall, upon the appointment of the conservator, so notify the Department of Motor Vehicles.

(b) The right to enter into contracts. The officer may recommend against the person having the right to enter specified types of transactions or transactions in excess of specified money amounts.

(c) The disqualification of the person from voting pursuant to Section 707.5 of the Elections Code.

(d) The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. The conservatee shall retain all rights specified in Section 5325.

(e) The right to refuse or consent to other medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled which is necessary for the treatment of an existing or continuing medical condition. The report shall include an evaluation of such condition and the current treatment for such condition, if any.

(f) The disqualification of the person from possessing a firearm pursuant to subdivision (e) of Section 8103.

SEC. 6. Section 12096 of the Penal Code is amended to read:

12096. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the sawed-off shotguns are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 7. Section 12231 of the Penal Code is amended to read:

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the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 8. Section 12250 of the Penal Code is amended to read:

12250. (a) The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at the place specified in the license of machineguns subject to all of the following conditions, upon breach of any of which the license shall be revoked:

- 1. The business shall be carried on only in the place designated in the license.
- 2. The license or a certified copy thereof must be displayed on the premises in a place where it may easily be read.
- 3. No machinegun shall be delivered to any person not authorized to receive the same under the provisions of this chapter.
- 4. A complete record must be kept of sales made under the authority of the license, showing the name and address of the purchaser, the descriptions and serial numbers of the weapons purchased, the number and date of issue of the purchaser's permit, if any, and the signature of the purchaser or purchasing agent. This record shall be open to the inspection of any peace officer or other person designated by the Attorney General.

(b) Applications for licenses shall be filed in writing, signed by the applicant if an individual or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and licenses shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a license shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A license granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee not

to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 9. Section 12305 of the Penal Code is amended to read:

12305. (a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of such business from the Department of Justice.

(b) Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice.

SEC. 10. Section 12306 of the Penal Code is amended to read:

12306. (a) Any person, firm or corporation, other than those included in Section 12305, shall obtain a permit from the Department of Justice before possessing or transporting any destructive device.

Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 11. Section 12424 of the Penal Code is amended to read:

12424. Applications for permits shall be filed in writing, signed by

the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

If the tear gas container contains the name of the applicant, it shall contain the name of the applicant.

Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

Each applicant for a permit shall pay at the time of filing his or her application a fee not to exceed the application processing costs of the Department of Justice.

A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice.

After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 12. Section 12435 of the Penal Code is amended to read:

12435. The Department of Justice shall prescribe the forms to be used for the issuance of licenses for the sale of weapons, and for the issuance of licenses for the sale of protective systems, subject to all of the provisions of this chapter.

(a) Under no circumstances shall a license for the sale of weapons be issued to a person who is not a resident of this state.

(b) The license for the sale of weapons shall be valid only in the county in which the sales premises are located.

(c) No tear gas wear shall be authorized for the sale of tear gas wear unless the purchaser has knowledge of the maintenance requirements for the tear gas wear.

(d) A person who purchases tear gas wear shall be authorized to use the tear gas wear for self-defense purposes.

(1) The purchaser shall be authorized to use the tear gas wear for self-defense purposes.

(2) The purchaser shall be authorized to use the tear gas wear for self-defense purposes.

(3) The purchaser shall be authorized to use the tear gas wear for self-defense purposes.

(4) The purchaser shall be authorized to use the tear gas wear for self-defense purposes.

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(7) The purchaser shall be authorized to use the tear gas wear for self-defense purposes.

(8) The purchaser shall be authorized to use the tear gas wear for self-defense purposes.

(9) The purchaser shall be authorized to use the tear gas wear for self-defense purposes.

the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the place or vehicle in which the tear gas or tear gas weapons are to be transported, kept, installed, or maintained.

If the tear gas or tear gas weapons are to be used in connection with, or to constitute, a protective system, the application shall also contain the name of the person who is to install the protective system.

Applications and permits shall be uniform throughout the state upon forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

SEC. 12. Section 12435 of the Penal Code is amended to read:
12435. The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at retail of tear gas or tear gas weapons, and to permit the installation and maintenance of protective systems involving the use of tear gas or tear gas weapons subject to all of the following conditions upon breach of any of which the license shall be subject to forfeiture:

(a) Under a sales license for the sale of tear gas or tear gas weapons issued by the department, the business shall be carried on only in the building designated in the license, except that self-defense products may be sold at the place of instruction.

(b) The license or certified copy thereof shall be displayed at each sales premises in a place where it may easily be read.

(c) No tear gas or tear gas weapon shall be delivered to any person not authorized to possess or transport the same under the provisions of this chapter. No protective system involving the use of tear gas or tear gas weapons shall be installed, nor shall supplies be sold for the maintenance of such system, unless the licensee has personal knowledge of the existence of a valid permit for the operation and maintenance of the system.

(d) A permanent complete sales register shall be kept of self-defense tear gas and tear gas weapons sales made under the authority of the license, showing all of the following:

(1) The purchaser's name, date of birth, and address; the purchaser's identification card number and date of issue; the purchaser's response to questions pertaining to his or her eligibility

to purchase tear gas or tear gas weapons pursuant to the requirements of subdivision (a) of Section 12403.7.

(2) The quantity and description, including serial numbers of articles purchased.

(3) The business name, address, and telephone number; the business retail tear gas sales license number; and the name and signature of the person making the sales.

(4) The date and time of sale.

(e) This sales register shall be open to the inspection of any peace officer or other person designated by the Attorney General.

(f) The original copy of the sales register shall be retained as part of the vendor's permanent record of sales. The duplicate copy of the sales register of each transaction shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the chief of police or sheriff who has jurisdiction over the purchaser's place of residence.

(g) The sales register requirements of this section shall not apply to wholesale or retail dealers in their normal business intercourse with other wholesale or retail dealers.

(h) The sales register required for each tear gas weapon sale shall be prepared by and obtained from the Department of General Services and shall be furnished by the Department of General Services to the licensed vendor on application at a cost to be determined by the Department of General Services for each 100 leaves in duplicate, one original and one duplicate for the making of one carbon copy. The original and duplicate copy shall differ in color, and shall be in a form prescribed by the Department of Justice.

The Department of General Services upon issuing a register shall forward to the Department of Justice the name and business address of the vendor together with the series and sheet numbers of the register. The register shall not be transferable. If the vendor moves his business to a different location he shall notify the Department of Justice of such fact in writing within 48 hours.

(i) Each applicant for the tear gas sales license described in this section shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A license granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

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

8101. Any person who shall knowingly supply, sell, give, or allow possession or control of any firearm or deadly weapon to any person

described in S imprisonment in exceeding one year (\$1,000), or by body section, "deadly concealed carry Penal Code.

SEC. 14. Section amended to read

8103. (a) (1) adjudicated by a of mental disorder be a mentally possession, custody issued to such person release from the possess a firearm not, subsequently adjudicated by a disorder or mental

(2) The court of the court order paragraph (1). of any certificate

(b) (1) No person of the Penal Code not guilty by reason Section 207 or intentionally injured victim suffers great Penal Code involving Vehicle Code, (3 of Section 261 Penal Code in the a violation of § suffers great bodily 12303.3, 12308, involving death threat of bodily any other state of any of the a have in his or her any firearm.

(2) The court of the court order paragraph (1).

(c) (1) No person of the Penal Code not guilty by

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described in Section 8100 or 8103 shall be punishable by imprisonment in a state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment. For purposes of this section, "deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

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

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall have in his or her possession, custody, or control any firearm unless there has been issued to such person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm without endangering others, and such person has not, subsequent to the issuance of such certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

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

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall have in his or her possession or under his or her custody or control any firearm.

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

(c) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those

described in subdivision (b) shall have in his or her possession, custody, or control any firearm unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

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

(d) (1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall have in his or her possession, custody, or control any firearm, unless there has been a finding with respect to such person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

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

(e) (1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall have in his or her possession, custody, or control any firearm while under such conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm possession by the person the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship found. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the department, and shall be used only to determine eligibility to purchase or possess firearms. Any person who knowingly furnishes any such information for any other purpose is guilty of a misdemeanor. All such information concerning any person shall be destroyed upon receipt by the

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Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) Every person who possesses or has under his or her custody or control any firearm in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

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

8104. The State Department of Mental Health shall make available to the Department of Justice those records which the State Department of Mental Health has in its possession which are necessary to identify persons who come within the provisions of Section 8100 or 8103. These records shall be made available to the Department of Justice upon request. The Department of Justice shall make such requests only with respect to its duties with regard to applications for permits for explosives as defined in Section 12000 of the Health and Safety Code, concealable weapons as defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code, and destructive devices as defined in Section 12301 of the Penal Code. Such records shall not be furnished or made available to any person unless the department determines that disclosure of any information in such records is necessary to carry out its duties with respect to applications for permits for explosives, destructive devices, concealable weapons, and machineguns.

SEC. 16. The sum of fifteen thousand dollars (\$15,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement in the 1984-85 fiscal year, in accordance with Section 2231 of the Revenue and Taxation Code, to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

SEC. 17. Section 1.1 of this bill incorporates amendments to Section 12020 of the Penal Code proposed by both this bill and SB 2248. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Sections 12020 of the Penal Code, and (3) this bill is enacted after SB 2248, in which case Section 1 of this bill shall not become operative.

CHAPTER 1563

An act to amend Section 8217 of the Corporations Code, to amend Section 12182.5 of the Government Code, to amend Sections 17053, 23605, and 24343.5 of, to add and repeal Section 17149 of, and to repeal Section 17223 of, the Revenue and Taxation Code, relating to ridesharing, to take effect immediately, tax levy.

on file with the clerk of the public agency and shall remain on file in that office.

(d) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 6. Section 933 is added to the Penal Code, to read:

933. (a) No later than one month after the end of each fiscal year of a county, each grand jury impaneled during that fiscal year shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to county government matters other than fiscal matters during the fiscal year.

(b) No later than six months after the end of each fiscal year, each grand jury impaneled during that fiscal year shall submit to the presiding judge of the superior court a final report of its findings and recommendations that pertain to fiscal matters of county government during the fiscal year of the county.

(c) No later than 90 days after the grand jury submits any final report, the board of supervisors shall comment on the findings and recommendations of the grand jury that pertain to county government matters under the control of the board and every elective county officer shall report to the board of supervisors on the findings and recommendations pertaining to such county officer. All such comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury for the fiscal year. A copy thereof shall be placed on file with the county clerk and shall remain on file in the office of the county clerk.

(d) This section shall become operative January 1, 1989.

SEC. 7. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1409

An act to amend Sections 8103 and 8104 of the Welfare and Institutions Code, relating to firearms.

[Approved by Governor September 24, 1982. Filed with Secretary of State September 27, 1982.]

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

SECTION 1. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result

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of mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall have in his or her possession, custody, or control any firearm unless there has been issued to such person a certificate as hereafter described in this section and such person has not, subsequent to the issuance of such certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) A certificate meeting the requirements of this section must be a written statement that is either part of a broader certificate of competency or a separate document and that is issued, on application of the person who was so adjudicated, either at the time of release from treatment under such adjudication or at a later date, by the medical director of any California state hospital, stating that in the opinion of the person issuing the certificate based either on his own knowledge or on the opinions of members of his staff or on records of the institution, the applicant is a person who may possess a firearm without endangering others. If a person applies to a medical director of a California state hospital for such a certificate and the applicant has not been treated in that hospital, or if the medical director believes that a current mental examination is necessary to enable him to determine whether or not such a certificate shall be issued, the medical director shall cause such person to be examined by a member of the staff of the hospital and may otherwise investigate the case. The medical director may charge a reasonable fee for such examination and investigation.

(3) Refusal of a medical director to issue a certificate of competency or separate document as described in the preceding provisions of this section is reviewable by mandamus in the superior court of the county of which the applicant is a resident or the county in which the hospital of which the medical director is head. Upon a showing to the satisfaction of the court of abuse of discretion by the medical director the court shall issue its writ directing the medical director to issue its certificate or document.

(b) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of

the above felonies as defined under California law, shall have in his possession or under his custody or control any firearm.

(c) Every person who possesses or has under his custody or control any firearm in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

SEC. 2. Section 8104 of the Welfare and Institutions Code is amended to read:

8104. The Department of Mental Health shall keep and maintain records necessary to identify persons who are currently being treated, or have been treated, in mental health facilities in California who come within the provisions of this chapter. Such records shall be made available to the Department of Justice upon request. The Department of Justice shall make such requests only with respect to its duties with regard to applications for permits for explosives as defined in Section 12000 of the Health and Safety Code, concealable weapons as defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code and destructive devices as defined in Section 12301 of the Penal Code. Such records shall not be furnished or made available to any person unless the department determines that disclosure of any information in such records is necessary to carry out its duties with respect to applications for permits for explosives, destructive devices, concealable weapons, and machineguns.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1410

An act to amend Sections 5255, 5256, and 5258 of, and to add Chapter 16.5 (commencing with Section 3050) to Division 1 of, the Financial Code, relating to financial institutions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1982. Filed with Secretary of State September 27, 1982.]

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

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SECTION 1.
added to Division

CHAPTER 16.

3050. In this section:
(a) "Approval" means the approval of the association intended to be formed.
(1) In the case of a credit union, association intended to be formed and loan association.
(2) In the case of a credit union, association intended to be formed and loan association.
(b) "Conversion" means the conversion of an association into a state savings and loan association.
(c) "Share" means a share in an association, membership in an association, or stock in a loan association.
(d) "Shareholder" means a shareholder in a loan association or stock in a loan association.

(e) "State banking laws" means the laws of this state relating to banks.
(f) "State savings and loan association" means a savings and loan association and loan association.

3051. (a) The approval of the conversion of an association to the provisions of this chapter is prohibited or restricted with Section 5258 of the Financial Code, authorization of conversion of an association to the provisions of this chapter.

(2) Paragraph (a) of this section shall not apply to the conversion of an association to the provisions of this chapter if the conversion is authorized by a new state banking law enacted after the effective date of Section 3(d) of this chapter.

(b) A state banking law enacted after the effective date of this chapter, pursuant to the provisions of this chapter, shall not be prohibited or restricted by the provisions of this chapter if the conversion is authorized by other authorization.

3052. The provisions of this chapter (commencing with Section 3050) shall apply to financial institutions of this chapter if the conversion is inconsistent with the provisions of this chapter.

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basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or for the offer of a compromise settlement.

(14) Directly advising a claimant not to obtain the services of an attorney.

(15) Misleading a claimant as to the applicable statute of limitations.

CHAPTER 187

An act to amend Section 8103 of the Welfare and Institutions Code, relating to firearms.

[Approved by Governor June 2, 1978. Filed with Secretary of State June 2, 1978.]

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

SECTION 1. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. No person who has been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness, after October 1, 1955, shall have in his possession or under his custody or control any firearm unless there has been issued to such person a certificate as hereafter described in this section and such person has not, subsequent to the issuance of such certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

A certificate meeting the requirements of this section must be a written statement that is either part of a broader certificate of competency or a separate document and that is issued, on application of the person who was so adjudicated, either at the time of release from treatment under such adjudication or at a later date, by the medical director of any California state hospital, stating that in the opinion of the person issuing the certificate based either on his own knowledge or on the opinions of members of his staff or on records of the institution, the applicant is a person who may possess a firearm without endangering others. If a person applies to a medical director of a California state hospital for such a certificate and the applicant has not been treated in that hospital, or if the medical director believes that a current mental examination is necessary to enable him to determine whether or not such a certificate shall be issued, the medical director shall cause such person to be examined by a member of the staff of the hospital and may otherwise investigate the case. The medical director may charge a reasonable fee for such examination and investigation.

Refusal of a medical director to issue a certificate of competency or separate document as described in the preceding provisions of this

section is reviewable by mandamus in the superior court of the county of which the applicant is a resident or the county in which the hospital of which the medical director is head. Upon a showing to the satisfaction of the court of abuse of discretion by the medical director the court shall issue its writ directing the medical director to issue its certificate or document.

No person who has been found, pursuant to Section 1026 of the Penal Code, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, shall have in his possession or under his custody or control any firearm.

Every person who possesses or has under his custody or control any firearm in violation of this section is guilty of a misdemeanor.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 188

An act to amend Section 19627.7 of the Business and Professions Code, and to amend Sections 6039, 12041, 14971, 20462, 20463, 24007, 27571, 29322, 40571, 41001, 41201, 59722, 62305, and 62719 of the Food and Agricultural Code, relating to boards and committees.

[Approved by Governor June 2, 1978. Filed with
Secretary of State June 2, 1978.]

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

SECTION 1. Section 19627.7 of the Business and Professions Code is amended to read:

19627.7. There is in the Department of Food and Agriculture a Fair Budget Review Board to advise the Director of Food and

version of facilities and a statement that the time for appeal has expired, or in the case of a modified approval, that the modifications have been made, or

(d) That the time allowed for decision has passed and no decision has been made or that the voluntary area health planning agency failed to act upon a lack of recommendation by the voluntary local health planning agency within the time allowed, or

(e) That more than 12 months have expired since a decision has been reached by the voluntary area health planning agency.

SEC. 14. Section 7003.2 is added to the Welfare and Institutions Code, to read:

7003.2. The department may review but shall not approve any construction plans or issue any license under this chapter which shall cover new or additional bed capacity or the conversion of an existing bed capacity to a different category, except for outpatient and emergency services, until the applicant has complied with the provisions of Section 7003.1.

SEC. 15. Within 90 days of the effective date of this act, the Health Planning Council shall adopt guidelines pursuant to Section 437.7 of the Health and Safety Code. By July 1, 1970, all voluntary area health planning agencies shall adopt guidelines pursuant to Section 437.7 of such code. This act shall not apply to applicants who have filed applications for licenses, prior to January 1, 1970, which meet all requirements and regulations of the appropriate state agency existing at the time of application, including at least preliminary submission of plans.

SEC. 16. This act shall not apply to any facilities which have been approved for federal or state funds pursuant to Chapter 3 (commencing with Section 430) of Part 1 of Division 1 of the Health and Safety Code prior to July 1, 1970.

SEC. 17. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1452

An act to add Section 14105.5 to the Welfare and Institutions Code, relating to medical assistance.

[Approved by Governor September 4, 1969. Filed with Secretary of State September 4, 1969.]

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

SECTION 1. Section 14105.5 is added to the Welfare and Institutions Code, to read:

[Ch. 1451

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14105.5. The director shall make no payment for services to any hospital facility which secures a license under the provisions of Chapter 2 (commencing with Section 1400) of Division 2 of the Health and Safety Code or Chapter 1 (commencing with Section 7000) of Division 7 of this code after July 1, 1970, covering a new facility or additional bed capacity or the conversion of existing bed capacity to a different license category, unless such licensee received a favorable final decision by the voluntary area health planning agency in the area, the consumer members of a voluntary area health planning agency acting as an appeals body or the Health Planning Council pursuant to Sections 437.7 to 438.5, inclusive, of the Health and Safety Code; or unless the licensee had filed an application for a license prior to January 1, 1970, and the application met all then-existing requirements and regulations of the appropriate state agency at the time of application including, at least, preliminary submission of plans.

Sec. 2. This act shall become operative only if Assembly Bill No. 1340 is enacted by the Legislature at its 1969 Regular Session.

CHAPTER 1453

An act to add Article 2.8 (commencing with Section 13250) to Chapter 2 of Division 10 of the Education Code, relating to the New Careers in Education Program, and making an appropriation therefor.

[Approved by Governor September 4, 1969. Filed with Secretary of State September 4, 1969.]

I object to the \$125,000 appropriation in Assembly Bill No. 1362, and I hereby reduce said appropriation from \$125,000 to \$62,500.
With this reduction, I approve the bill.

RONALD REAGAN, Governor

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

SECTION 1. Article 2.8 (commencing with Section 13250) is added to Chapter 2 of Division 10 of the Education Code, to read:

Article 2.8. New Careers in Education Act

13250. It is the intent and purpose of the Legislature by enacting this chapter to make provisions for a New Careers Program to recruit and train persons who have completed at least 60 units of college work in a junior college or a four-year institution of higher education for teaching in low-income elementary schools. It is the further intent and purpose of this chapter to provide a means by which capable persons of low-income background may enter the teaching profession. The New Careers Program is designed to provide practical teaching experience in schools with high concentrations of low-

Ch. 1453]

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The state board shall review the information contained in the reports made by the local public agencies. The state board shall submit to the Legislature findings and conclusions as to the anticipated local, state, and federal financing necessary to provide the needed facilities for such period and shall advise the Legislature on the need for further surveys on or before the 60th calendar day of the 1968 Regular Session of the Legislature.

13602. The state board shall make no commitment or enter into any agreement pursuant to an exercise of authority under this chapter until it has determined that any money required to be furnished as the state's share of project cost is available for such purpose.

13603. The Governor may request the funds required to finance the state's share of project costs for each fiscal year through inclusion of the anticipated state's share in the annual Budget Bill. In no case, however, shall funds under this chapter be appropriated by the Legislature prior to 1968, nor until the findings of need have been reported and evaluated by the Legislature.

13604. The state board shall review and approve each sewage treatment project for which an application for a grant under the act has been made. The state board shall, in reviewing each project, determine whether such project is in conformity with statewide policies for control of water pollution and water quality and in conformity with policies with respect to water pollution control and water quality control adopted by regional water quality control boards, and shall certify that such project is entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs.

13605. All money appropriated by the Legislature for the state's share of the project costs shall be appropriated without regard to fiscal years, or shall augment an appropriation without regard to fiscal years.

CHAPTER 1667

An act to repeal Sections 1320.2, 1671, 2416, 2618, 2689, 2763, 2879, 2964, 3108, 4355, 4522, 4884, 5107, 5587, 5674, 6007, 6597, 6780, 7124.1, 7211.1, 7432, 7554, 7710, 8027, 8656, 8782, 8958, 10177.6, and 10562.6 of the Business and Professions Code; to amend Section 40 of the Civil Code; to repeal Sections 388, 388.2, 388.4, and 388.6 of the Elections Code; to add Division 4 (commencing with Section 4000), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), Division 7 (commencing with Section 7000), Division 8 (commencing with Section 8000), and Sections 14021 and 14150.4 to, to amend Section 9034 of, and to repeal Division 5 (commencing with Section

4000), Division 6 (commencing with Section 5000), Division 6.5 (commencing with Section 7900), Division 7 (commencing with Section 8000), and Division 8 (commencing with Section 9000) of, the Welfare and Institutions Code, relating to mental health services.

[Approved by Governor September 2, 1967. Filed with Secretary of State September 2, 1967.]

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

- SECTION 1. Section 1320.2 of the Business and Professions Code is repealed.
- SEC. 2. Section 1671 of the Business and Professions Code is repealed.
- SEC. 3. Section 2416 of the Business and Professions Code is repealed.
- SEC. 4. Section 2618 of the Business and Professions Code is repealed.
- SEC. 5. Section 2689 of the Business and Professions Code is repealed.
- SEC. 6. Section 2763 of the Business and Professions Code is repealed.
- SEC. 7. Section 2879 of the Business and Professions Code is repealed.
- SEC. 8. Section 2964 of the Business and Professions Code is repealed.
- SEC. 9. Section 3108 of the Business and Professions Code is repealed.
- SEC. 10. Section 4355 of the Business and Professions Code is repealed.
- SEC. 11. Section 4522 of the Business and Professions Code is repealed.
- SEC. 12. Section 4884 of the Business and Professions Code is repealed.
- SEC. 13. Section 5107 of the Business and Professions Code is repealed.
- SEC. 14. Section 5587 of the Business and Professions Code is repealed.
- SEC. 15. Section 5674 of the Business and Professions Code is repealed.
- SEC. 16. Section 6007 of the Business and Professions Code is repealed.
- SEC. 17. Section 6597 of the Business and Professions Code is repealed.
- SEC. 18. Section 6780 of the Business and Professions Code is repealed.
- SEC. 19. Section 7124.1 of the Business and Professions Code is repealed.
- SEC. 20. Section 7211.1 of the Business and Professions Code is repealed.

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- SEC. 21. Section Code is repealed.
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- SEC. 21. Section 7432 of the Business and Professions Code is repealed.
- SEC. 22. Section 7554 of the Business and Professions Code is repealed.
- SEC. 23. Section 7710 of the Business and Professions Code is repealed.
- SEC. 24. Section 8027 of the Business and Professions Code is repealed.
- SEC. 25. Section 8656 of the Business and Professions Code is repealed.
- SEC. 26. Section 8782 of the Business and Professions Code is repealed.
- SEC. 27. Section 8958 of the Business and Professions Code is repealed.
- SEC. 28. Section 10177.6 of the Business and Professions Code is repealed.
- SEC. 29. Section 10562.6 of the Business and Professions Code is repealed.
- SEC. 30. Section 40 of the Civil Code is amended to read: 40. Subject to Sections 1561 and 1910 of the Probate Code, and subject to Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code after his incapacity has been judicially determined, a person of unsound mind can make no conveyance or other contract, nor delegate any power or waive any right, until his restoration to capacity. But a certificate from the medical superintendent or resident physician of the insane asylum to which such person may have been committed, showing that such person had been discharged therefrom, cured and restored to reason, shall establish the presumption of legal capacity in such person from the time of such discharge.
- SEC. 30.5. Section 40 of the Civil Code is amended to read: 40. Subject to Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code after his incapacity has been judicially determined, a person of unsound mind can make no conveyance or other contract, nor delegate any power or waive any right, until his restoration to capacity. But a certificate from the medical superintendent or resident physician of the insane asylum to which such person may have been committed, showing that such person had been discharged therefrom, cured and restored to reason, shall establish the presumption of legal capacity in such person from the time of such discharge.
- SEC. 31. Section 388 of the Elections Code is repealed.
- SEC. 32. Section 388.2 of the Elections Code is repealed.
- SEC. 33. Section 388.4 of the Elections Code is repealed.
- SEC. 34. Section 388.6 of the Elections Code is repealed.
- SEC. 34.5. Division 5 (commencing with Section 4000) of the Welfare and Institutions Code is repealed.
- SEC. 35. Division 4 (commencing with Section 4000) is added to the Welfare and Institutions Code, to read:

8052. Each state agency shall cooperate with the superintendent of the Langley Porter Clinic, or with the University of California, as the case may be, to the fullest extent that its facilities will permit without interfering with the carrying out of its primary purposes and functions.

8053. The Department of Mental Hygiene with the approval of the Director of Finance may accept gifts or grants from any source for the accomplishment of the objects and purposes of this chapter. The provisions of Section 16302 of the Government Code do not apply to such gifts or grants and the money so received shall be expended to carry out the purposes of this chapter, subject to any limitation contained in such gift or grant.

CHAPTER 3. FIREARMS

8100. No person who is a mental patient in any hospital or institution or on leave of absence from any hospital or institution shall own or have in his possession or under his custody or control any firearms whatsoever.

8101. Any person who shall knowingly supply, sell, give, or allow possession or control of a firearm to any person who is a mental patient in any hospital or institution or on leave of absence from any hospital or institution, shall be punishable by imprisonment in a county jail not exceeding one year or by fine not exceeding five hundred dollars (\$500), or by both fine and imprisonment.

8102. Whenever a person who has been detained or apprehended for examination of his mental condition, or who is a mental patient in any hospital or institution or who is on leave of absence from such hospital or institution, is found to own, have in his possession or under his control, any firearm whatsoever, said firearm shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of said firearm until the release without commitment of the person or the restoration to capacity of the person, or until the appointment of a guardian for the person, or shall make such other disposition of the firearm as ordered by the court.

8103. No person who has been involuntarily committed, or who has been placed as a conservatee, after October 1, 1955, in any public or private mental hospital or sanitarium for a period of 30 days or more shall have in his possession or under his custody or control any firearm unless there has been issued to such person a certificate as hereafter described in this section and such person has not, subsequent to the issuance of such certificate, again been involuntarily committed for a period of 30 days or more in any such hospital or sanitarium.

A certificate meeting the requirements of this section must be a written statement that is either part of a broader certificate of competency or a separate document and that is issued, on application of the person who was committed or placed,

either at the time of release or at a later date, by the superintendent of any California state hospital, stating that in the opinion of the person issuing the certificate based either on his own knowledge or on the opinions of members of his staff or on records of the institution, the applicant is a person who may possess a firearm without endangering others. If a person applies to a superintendent of a California state hospital for such a certificate and the applicant has not been committed to that hospital, or if the superintendent believes that a current mental examination is necessary to enable him to determine whether or not such a certificate shall be issued, the superintendent shall cause such person to be examined by a member of the staff of the hospital and may otherwise investigate the case. The superintendent may charge a reasonable fee for such examination and investigation.

Refusal of a superintendent to issue a certificate of competency or separate document as described in the preceding provisions of this section is reviewable by mandamus in the superior court of the county of which the applicant is a resident or the county in which the hospital or sanitarium of which the superintendent is head. Upon a showing to the satisfaction of the court of abuse of discretion by the superintendent the court shall issue its writ directing the superintendent to issue its certificate or document.

Every person who possesses or has under his custody or control any firearm in violation of this section is guilty of a misdemeanor.

CHAPTER 4. COORDINATION OF PROGRAMS FOR THE HANDICAPPED CHILDREN

8150. There is in the state government a Coordinating Council on Programs for Handicapped Children. The council shall be composed of the Director of Education, the Director of Mental Hygiene, the Director of Public Health, the Director of Rehabilitation, the Director of Social Welfare, and the Director of the Youth Authority. The council shall annually elect a chairman from among its membership. The chairmanship shall rotate annually so that each member is chairman for one year in each six years, and so that the order of rotation established in the first six years shall be repeated thereafter for each succeeding six-year period.

8151. The council shall make a continuous review of programs and services being offered to the physically and mentally handicapped persons under age 21 in California, both by state and local agencies, and shall coordinate and evaluate the existing programs.

8152. The council shall prepare and distribute a list describing the services available to handicapped persons under age 21 and the requirements for obtaining such services.

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