

Memorandum 2008-39

**Nonsubstantive Reorganization of Deadly Weapon Statutes:
Title 4. Firearms (Divisions 4-5)**

In its nonsubstantive study of the statutes relating to deadly weapons, the Commission is in the process of preparing a tentative recommendation, which will be broadly circulated for comment. The plan is to reorganize the material in Title 2 of Part 4 of the Penal Code (Penal Code §§ 12000-12809) in a user-friendly manner in a new Part 6 of the Penal Code, without making any substantive changes. For an outline of new Part 6, see Memorandum 2008-38.

Attached is a draft of Divisions 4 and 5 of "Title 4. Firearms" of new Part 6. **Commissioners and interested persons should review the draft and determine whether any revisions are needed before it is incorporated into a tentative recommendation.**

Two general issues relating to the draft are discussed below: (1) the use of singular versus plural form, and (2) conforming of statutory cross-references. Staff Notes (~~is~~ **Staff Note**) in the attached draft raise other matters for Commissioners and interested persons to consider. **The staff does not plan to discuss each of these matters at the upcoming meeting.** Rather, persons should review the draft, identify any issues of concern, and then raise those issues for discussion at the meeting or express their concerns in writing, preferably before the meeting (but afterwards is also acceptable).

Unless otherwise indicated, all statutory references are to the Penal Code.

SINGULAR VERSUS PLURAL FORM

In preparing the attached draft, the staff tried to use the Commission's usual style of drafting statutory provisions in the singular form instead of in the plural form. For example, we would say "subdivision (a) does not apply to any peace officer of another state or the federal government" instead of "subdivision (a) does not apply to peace officers of other states and the federal government"

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The singular form is more crisp and clear. There is no difference in meaning, because “the singular number includes the plural, and the plural the singular” Penal Code § 7. The nonsubstantive nature of the reform would be underscored by the Commission’s Comment (“Section X continues former Section Y without substantive change”), the narrative portion of the Commission’s report, and an uncodified provision in the proposed legislation. See Memorandum 2007-5, pp. 10-11; Minutes (Jan. 2007), p. 7.

However, many of the provisions currently in Title 2 of Part 4 of the Penal Code are drafted in the plural form. Converting them to the singular form without any risk of a change in meaning is not always easy, particularly if the current phrasing is unclear.

The staff has therefore left some provisions in the plural form in the attached draft (see, e.g., proposed Sections 25625, 26025, 26030). We expect to have to do this with other provisions as this study progresses. This is perhaps an overabundance of caution, but it may be necessary to help provide assurance that the Commission’s proposal is strictly nonsubstantive. We invite comment on this matter.

If the Commission’s proposal is enacted, it might be appropriate to revisit the plural form provisions and assess whether they should be redrafted in singular form. Unless the Commission otherwise directs, the staff will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See Memorandum 2008-41.

CONFORMING OF STATUTORY CROSS-REFERENCES

Title 2 of Part 4 of the Penal Code contains many provisions that cross-refer to other statutes. As material is reorganized in new Part 6 of the Penal Code, each such cross-reference must be conformed to the new numbering scheme.

Often, an existing cross-reference can simply be replaced by a cross-reference to a new provision containing the exact same material as the previously cross-referenced provision. For example, the second sentence of existing Section 12052 says: “Upon receipt of the fingerprints and the fee *as prescribed in Section 12054*, the department shall promptly furnish the forwarding licensing authority a report” (Emphasis added.) The substance of existing Section 12054 would be recodified as proposed Section 26190. See Attachment pp. 51-52. Consequently, the existing cross-reference to Section 12054 can be replaced with a cross-

reference to proposed Section 26190. The provision that continues the second sentence of existing Section 12052 (proposed Section 26185) would thus say: "Upon receipt of the fingerprints and the fee *as prescribed in Section 26190*, the department shall promptly furnish the forwarding licensing authority a report" See Attachment p. 50 (emphasis added).

In some instances, however, that approach does not make sense. For example, existing Section 12027.1(a)(1)(A)(ii) says:

Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a concealed and loaded firearm if the agency issued the officer an identification certificate and the certificate *has not been stamped as specified in paragraph (2) of subdivision (a) of Section 12027.*

(Emphasis added.) The cross-referenced provision (Section 12027(a)(2)) says:

A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a concealed firearm. *A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have his or her privilege to carry a concealed firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."*

(Emphasis added.) The substance of that provision would be recodified as proposed Sections 25465, 25455(d), and 25470.

Suppose the existing cross-reference was replaced by a cross-reference to all three of these sections. Then the provision continuing Section 12027.1(a)(1)(A)(ii) would read:

Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a concealed and loaded firearm if the agency issued the officer an identification certificate and the certificate *has*

not been stamped as specified in Sections 25465, 25470, and subdivision (d) of Section 25455.

(Emphasis added.) A reader would need to refer to all three sections to determine the meaning of the provision. But the only section that deals with stamping of an identification certificate is Section 25470.

It would thus be more user-friendly to refer only to that section in the provision continuing Section 12027.1(a)(1)(A)(ii). The staff took that approach in the attached draft. Proposed Section 26300(a) would say:

Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a concealed and loaded firearm if the agency issued the officer an identification certificate and the certificate *has not been stamped as specified in Section 25470.*

See Attachment p. 58 (emphasis added).

We exercised similar judgment in conforming other cross-references. For example, proposed Section 26150 relates to issuance of a handgun license by a sheriff. It would continue the substance of Section 12050(a)(1)(A), which is the main provision on issuance of a handgun license by a sheriff. It would also continue the substance of Section 12050(a)(1)(D), which states a requirement that is cross-referenced in Section 12050(a)(1)(A). In preparing the attached draft, the staff has replaced cross-references to Section 12050(a)(1)(A) with cross-references to proposed Section 26150, even though proposed Section 26150 includes more material than is now in Section 12050(a)(1)(A). See Attachment pp. 47 (proposed § 26160), 48 (proposed § 26170), 53-54 (proposed § 26210), 56 (proposed § 26220), 57 (proposed § 26225). That makes more sense than trying to refer only to the part of proposed Section 26150 that continues existing Section 12050(a)(1)(A), which would be difficult to describe.

In making such judgment calls, the staff carefully examined the substance of the provisions in question and determined that there would be no substantive change. The Commission's Comments would state as much, and would be official legislative history, to be used by the courts in interpreting the proposed legislation. See *2007-2008 Annual Report*, 37 Cal. L. Revision Comm'n Reports 1, 17-23 (2007) & sources cited therein.

In addition, the narrative portion of the Commission's report would be official legislative history and would emphasize the nonsubstantive nature of the proposed legislation. *See id.* The staff suggests that **the report describe the**

process of conforming cross-references and expressly state that all cross-references in the proposed legislation are to be construed consistent with the nonsubstantive intent of the reform.

As previously discussed, the proposed legislation would also include an uncodified provision stating that the legislation is not intended to make any substantive change in the law. The staff further recommends that **the uncodified provision specifically indicate that all cross-references in the proposed legislation are to be interpreted consistent with the nonsubstantive intent of the reform.**

For example, **the uncodified provision could be worded as follows:**

SEC. __. Nothing in this act is intended to substantively change the law relating to deadly weapons. This act is intended to be entirely nonsubstantive in effect. Every provision of this act, including, without limitation, every cross-reference in every provision of this act, shall be interpreted consistent with the nonsubstantive intent of the act.

We encourage comment on this possible language, on the matter of conforming cross-references, and on any other aspect of this study.

Respectfully submitted,

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Contents

PROPOSED LEGISLATION	1
SELECTED PROVISIONS FROM DRAFTS PREVIOUSLY CONSIDERED	1
PART 6. CONTROL OF DEADLY WEAPONS.....	1
TITLE 1. PRELIMINARY PROVISIONS	1
DIVISION 2. DEFINITIONS	1
§ 16520. “Firearm”	1
§ 16530. “Firearm capable of being concealed upon the person,” “pistol,” and “revolver”.....	2
§ 16600. “Great bodily injury”	3
§ 16640. “Handgun”	3
§ 16690. “Honorably retired”.....	3
§ 16750. “Lawful possession of the firearm”.....	3
§ 16840. “Loaded” and “loaded firearm”.....	4
§ 16850. “Locked container”	4
§ 16860. “Locking device” for firearm	5
§ 17020. “Principal place of employment or business”.....	5
§ 17030. “Prohibited area”	5
NEW MATERIAL FOR REVIEW AND PROVISIONAL APPROVAL.....	6
TITLE 4. FIREARMS.....	6
DIVISION 4. STORAGE OF FIREARMS	6
CHAPTER 1. PRELIMINARY PROVISIONS	6
§ 25000. “Child”	6
CHAPTER 2. CRIMINAL STORAGE OF FIREARM	6
§ 25100. Criminal storage of firearm	6
§ 25105. Exceptions.....	7
§ 25110. Punishment	8
§ 25115. Prosecution of parent or guardian	8
§ 25120. Timing of prosecution of parent or guardian.....	8
§ 25125. Impact of attending firearm safety training course	9
§ 25130. Posting of required notice	9
CHAPTER 3. STORAGE OF FIREARM WHERE CHILD OBTAINS ACCESS AND CARRIES FIREARM OFF-PREMISES.....	10
§ 25200. Storage of firearm where child obtains access and carries firearm off-premises.....	10
§ 25205. Exceptions.....	11
§ 25210. Prosecution of parent or guardian	12
§ 25215. Timing of prosecution of parent or guardian.....	12
§ 25220. Impact of attending firearm safety training course	12
§ 25225. Posting of required notice	13
DIVISION 5. CARRYING FIREARMS.....	13
CHAPTER 1. MISCELLANEOUS RULES RELATING TO CARRYING FIREARMS.....	13
§ 25300. Carrying firearm in public while masked to hide identity	13
CHAPTER 2. CARRYING A CONCEALED FIREARM.....	14
Article 1. Crime of Carrying a Concealed Firearm	14
§ 25400. Crime of carrying concealed firearm	14
Article 2. Peace Officer Exemption.....	17
§ 25450. Peace officer exemption.....	17
§ 25455. Identification certificate for honorably retired peace officer.....	18

§ 25460. Format of endorsement on identification certificate	18
§ 25465. Renewal of privilege to carry concealed firearm	19
§ 25470. Denial or revocation of privilege to carry concealed firearm.....	19
§ 25475. Maintaining privilege to carry concealed firearm	19
Article 3. Conditional Exemptions	20
§ 25500. Effect of article	20
§ 25505. Conditions for exemption to apply	20
§ 25510. Motion picture, television, video production, or entertainment event	20
§ 25515. Club or organization for lawfully collecting and displaying firearms	21
§ 25520. Recognized sporting event or safety or hunter safety class	21
§ 25525. Transportation of firearm by owner or person in lawful possession to place of residence, place of business, or other private property of that person	21
§ 25530. Repair, transfer, sale, or loan of firearm	22
§ 25535. Gun show, swap meet, or similar event	22
§ 25540. Target range	22
§ 25545. Transportation to place designated by person authorized to issue license to carry firearm	22
§ 25550. Camping	23
§ 25555. Person taking title or possession of firearm by operation of law, or person receiving firearm by gift, bequest, intestate succession, or other means from immediate family member	23
§ 25560. Transportation of firearm to utilize Section 12078(l)	24
§ 25565. Sale, delivery, or transfer of firearm to governmental entity as part of program where entity is buying or receiving weapons from private individuals	24
§ 25570. Transportation of firearm by finder to law enforcement agency.....	25
§ 25575. Compliance with restrictions relating to importation of handgun by personal handgun importer	25
§ 25580. Transportation of curio or relic brought into state by licensed collector	26
§ 25585. Transportation of firearm to obtain identification number or mark	26
Article 4. Other Exemptions	26
§ 25600. Carrying concealed firearm when in reasonable belief of grave danger to self	26
§ 25605. Carrying or possession of firearm at one’s place of residence, place of business, or other private property	27
§ 25610. Carrying firearm in locked container	27
§ 25615. Transportation of unloaded handguns by licensed manufacturer, importer, wholesaler, repairer, or dealer	28
§ 25620. Member of military on duty or organization authorized by law to purchase or receive weapons	28
§ 25625. Parading by, or traveling to meeting of, duly authorized military or civil organization	29
§ 25630. Guard or messenger of common carrier, bank, or financial institution, when involved in shipping, transporting, or delivering money or other thing of value	29
§ 25635. Member of club or organization for purpose of practicing at established target ranges	29
§ 25640. Licensed hunters or fishermen.....	30
§ 25645. Transportation of unloaded firearms by person operating licensed common carrier.....	30
§ 25650. Honorably retired federal officer or agent.....	30
§ 25655. Person licensed to carry concealed pistol, revolver, or other firearm capable of being concealed upon the person	31
Article 5. Concealed Carrying of Firearm as a Nuisance.....	31
§ 25700. Unlawful carrying of handgun as nuisance	31
CHAPTER 3. CARRYING A LOADED FIREARM	32

Article 1. Armed Criminal Action	32
§ 25800. Armed criminal action	32
Article 2. Crime of Carrying a Loaded Firearm in Public	32
§ 25850. Crime of carrying loaded firearm in public	32
Article 3. Peace Officer Exemption to the Crime of Carrying a Loaded Firearm in Public	35
§ 25900. Peace officer exemption.....	36
§ 25905. Identification certificate for honorably retired peace officer.....	36
§ 25910. Format of endorsement on identification certificate	37
§ 25915. Renewal of privilege to carry loaded firearm.....	38
§ 25920. Denial or revocation of privilege to carry loaded firearm	38
§ 25925. Maintaining privilege to carry loaded firearm.....	38
Article 4. Other Exemptions to the Crime of Carrying a Loaded Firearm in Public.....	39
§ 26000. Members of military on duty	39
§ 26005. Target range or shooting club.....	39
§ 26010. Person licensed to carry concealed pistol, revolver, or other firearm capable of being concealed upon the person	39
§ 26015. Armored vehicle guard.....	39
§ 26020. Honorably retired federal officer or agent.....	39
§ 26025. Patrol special police officers, animal control officers, zookeepers, humane officers, and harbor police officers	40
§ 26030. Guards, messengers, private investigators, private patrol operators, and alarm company operators	41
§ 26035. Loaded firearm at one’s place of business or own private property	43
§ 26040. Hunting.....	43
§ 26045. Reasonable belief of immediate, grave danger to person or property.....	43
§ 26050. Making lawful arrest	45
§ 26055. Place of residence, including campsite	45
§ 26060. Rocket or other emergency or distress signaling device.....	45
Article 5. Loaded Firearm in Motor Vehicle	45
§ 26100. Loaded firearm in motor vehicle	45
CHAPTER 4. LICENSE TO CARRY PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON PERSON	46
§ 26150. Issuance of license by sheriff.....	46
§ 26155. Issuance of license by head of municipal police department	47
§ 26160. Written policy	47
§ 26165. Training course.....	48
§ 26170. Issuance of license to person deputized or appointed as peace officer.....	48
§ 26175. License application.....	49
§ 26180. False statement on application form	50
§ 26185. Fingerprinting and Department of Justice report	50
§ 26190. Application fees.....	51
§ 26195. No license for person in prohibited class.....	52
§ 26200. Restrictions or conditions on license.....	53
§ 26205. Notification of applicant	53
§ 26210. Change of licensee’s address	53
§ 26215. Amendment of license	55
§ 26220. Duration of license	56
§ 26225. Duties of licensing authority and Attorney General	57
CHAPTER 5. RETIRED PEACE OFFICER CARRYING CONCEALED AND LOADED FIREARM.....	57
§ 26300. Requirements for retired peace officer to carry concealed and loaded firearm	58
§ 26305. Grounds for revocation or denial of privilege to carry concealed and loaded firearm.....	58

§ 26310. Procedure for denial of privilege to carry concealed and loaded firearm.....59
§ 26315. Procedure for revocation of privilege to carry concealed and loaded firearm59
§ 26320. Hearing.....59
§ 26325. Procedure when privilege to carry concealed and loaded firearm is revoked.....59

1 incendiary material whether or not the device is designed for emergency or
2 distress signaling purposes.

3 (d) As used in [Sections 12070, 12071, and paragraph (8) of subdivision (a), and
4 subdivisions (b), (c), (d), and (f) of Section 12072], “firearm” does not include an
5 unloaded antique firearm.

6 (e) As used in [Section 12030], “firearm” does not include a destructive device.

7 (f) As used in Sections 17280 and [12020(c)(22)(C), 2d ¶], “firearm” has the
8 same meaning as in Section 922 of Title 18 of the United States Code.

9 **Comment.** Subdivision (a) of Section 16520 continues former Section 12001(b) without
10 substantive change, for purposes of “Part 6. Control of Deadly Weapons.” See also Section
11 _____, which continues former Section 12001(b) without substantive change, for purposes of
12 “Title 2. Sentencing Enhancements” of “Part 4. Prevention of Crimes and Apprehension of
13 Criminals.”

14 Subdivision (b) continues former Section 12001(c) without substantive change.

15 Subdivision (c) continues former Section 12001(d) without substantive change.

16 Subdivision (d) continues former Section 12001(e) without substantive change. See Section
17 16710 (“antique firearm”).

18 Subdivision (e) continues the fourth sentence of former Section 12030(d) without substantive
19 change. See Section 16460 (“destructive device”).

20 With respect to the definition of “firearm,” subdivision (f) continues the first paragraph of
21 former Section 12020(c)(22)(C) without substantive change.

22 **§ 16530. “Firearm capable of being concealed upon the person,” “pistol,” and “revolver”**

23 16530. (a) As used in this part, the terms “firearm capable of being concealed
24 upon the person,” “pistol,” and “revolver” apply to and include any device
25 designed to be used as a weapon, from which is expelled a projectile by the force
26 of any explosion, or other form of combustion, and that has a barrel less than 16
27 inches in length. These terms also include any device that has a barrel 16 inches or
28 more in length which is designed to be interchanged with a barrel less than 16
29 inches in length.

30 (b) Nothing shall prevent a device defined as a “firearm capable of being
31 concealed upon the person,” “pistol,” or “revolver” from also being found to be a
32 short-barreled rifle or a short-barreled shotgun.

33 **Comment.** Subdivision (a) of Section 16530 continues former Section 12001(a)(1) without
34 substantive change.

35 With respect to a “firearm capable of being concealed upon the person,” “pistol,” and
36 “revolver,” subdivision (b) continues former Section 12001(f) without substantive change. See
37 also Section 16640(b), which continues former Section 12001(f) with respect to a “handgun.”

38 See Sections 16520 (“firearm”), 17170 (“short-barreled rifle”), 17180 (“short-barreled
39 shotgun”). See also Section 16640 (“handgun” means “any pistol, revolver, or firearm capable of
40 being concealed upon the person”).

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3 **§ 16600. “Great bodily injury”**

4 16600. As used in [Section 12035], “great bodily injury” means a significant or
5 substantial physical injury.

6 **Comment.** Section 16600 continues former Section 12035(a)(4) without substantive change.
7 To make the provision more easily understandable, the definition of “great bodily injury” in
8 Section 12022.7 is repeated in Section 16600, rather than incorporated by reference as it was in
9 the past. Case law construing the definition in Section 12022.7 is relevant in construing Section
10 16600.

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12 **§ 16640. “Handgun”**

13 16640. (a) As used in this part, “handgun” means any pistol, revolver, or firearm
14 capable of being concealed upon the person.

15 (b) Nothing shall prevent a device defined as a “handgun” from also being found
16 to be a short-barreled rifle or a short-barreled shotgun.

17 **Comment.** Subdivision (a) of Section 16640 continues former Section 12001(a)(2) without
18 substantive change. See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed
19 upon the person,” “pistol,” and “revolver”).

20 With respect to a “handgun,” subdivision (b) continues former Section 12001(f) without
21 substantive change. See also Section 16530(b), which continues former Section 12001(f) with
22 respect to a “firearm capable of being concealed upon the person,” “pistol,” and “revolver.”

23 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
24 “pistol,” and “revolver”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

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25

26 **§ 16690. “Honorably retired”**

27 16690. As used in [Sections 12027 and 12031], “honorably retired” includes any
28 peace officer who has qualified for, and has accepted, a service or disability
29 retirement. As used in [Sections 12027 and 12031], “honorably retired” does not
30 include an officer who has agreed to a service retirement in lieu of termination.

31 **Comment.** Section 16690 continues the fourth and fifth sentences of former Section
32 12027(a)(1)(A) without substantive change.

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34 **§ 16750. “Lawful possession of the firearm”**

35 16750. (a) As used in [Section 12025], “lawful possession of the firearm” means
36 that the person who has possession or custody of the firearm either lawfully owns
the firearm or has the permission of the lawful owner or a person who otherwise

1 has apparent authority to possess or have custody of the firearm. A person who
2 takes a firearm without the permission of the lawful owner or without the
3 permission of a person who has lawful custody of the firearm does not have lawful
4 possession of the firearm.

5 (b) As used in [Section 12031], “lawful possession of the firearm” means that
6 the person who has possession or custody of the firearm either lawfully acquired
7 and lawfully owns the firearm or has the permission of the lawful owner or person
8 who otherwise has apparent authority to possess or have custody of the firearm. A
9 person who takes a firearm without the permission of the lawful owner or without
10 the permission of a person who has lawful custody of the firearm does not have
11 lawful possession of the firearm.

12 **Comment.** Subdivision (a) of Section 16750 continues former Section 12025(g) without
13 substantive change.

14 Subdivision (b) continues former Section 12031(a)(3) without substantive change.

15 See Section 16520 (“firearm”).

16

17 **§ 16840. “Loaded” and “loaded firearm”**

18 16840. (a) As used in [Section 12023], a firearm shall be deemed to be “loaded”
19 whenever both the firearm and the unexpended ammunition capable of being
20 discharged from the firearm are in the immediate possession of the same person.

21 (b) As used in [Sections 12025(b)(6)(A), 12031, and 12035],

22 (1) A firearm shall be deemed to be “loaded” when there is an unexpended
23 cartridge or shell, consisting of a case that holds a charge of powder and a bullet or
24 shot, in, or attached in any manner to, the firearm, including, but not limited to, in
25 the firing chamber, magazine, or clip thereof attached to the firearm.

26 (2) Notwithstanding paragraph (1), a muzzle-loader firearm shall be deemed to
27 be loaded when it is capped or primed and has a powder charge and ball or shot in
28 the barrel or cylinder.

29 **Comment.** Subdivision (a) of Section 16840 continues former Section 12001(j) without
30 substantive change.

31 Subdivision (b) continues former Sections 12031(g) and 12035(a)(2) without substantive
32 change.

33 See Section 16520 (“firearm”).

34 **§ 16850. “Locked container”**

35 16850. As used in [Sections 12020(b)(17)(E), 12026.1, 12026.2, 12035, 12036,
36 and 12094(b)(4)(E)], “locked container” means a secure container that is fully
37 enclosed and locked by a padlock, keylock, combination lock, or similar locking
38 device. The term “locked container” does not include the utility or glove
39 compartment of a motor vehicle.

NEW MATERIAL FOR REVIEW AND PROVISIONAL APPROVAL

Staff Note. The material shown below is new. Commissioners and other interested persons should review it carefully and determine whether any changes are necessary before it is incorporated into a tentative recommendation.

1 TITLE 4. FIREARMS

2 DIVISION 4. STORAGE OF FIREARMS

3 CHAPTER 1. PRELIMINARY PROVISIONS

4 § 25000. “Child”

5 25000. As used in this division, “child” means a person under 18 years of age.

6 **Comment.** Section 25000 continues former Sections 12035(a)(3) and 12036(a)(2) without
7 substantive change.

8 **Staff Note.** Section 12035(a)(3) defines “child” for purposes of that section as “a person
9 under 18 years of age.” Section 12036(a)(2) gives the same definition for purposes of that section.
10 The term is used differently elsewhere.

11 To help ensure that the applicable definition of this commonplace word is not overlooked, the
12 Commission decided to place the definition in close proximity to the substance of Sections 12035
13 and 12036, which relates to storage of firearms. See Memorandum 2008-23, p. 2; Minutes (June
14 2008), pp. 6-9. Proposed Section 25000 would implement that decision. The Commission and
15 other interested persons should assess whether this treatment of the definition of “child” for the
16 firearm storage restrictions is satisfactory.

17 CHAPTER 2. CRIMINAL STORAGE OF FIREARM

18 § 25100. Criminal storage of firearm

19 25100. (a) Except as provided in Section 25105, a person commits the crime of
20 “criminal storage of a firearm of the first degree” if all of the following conditions
21 are satisfied:

22 (1) The person keeps any loaded firearm within any premises that are under the
23 person’s custody or control.

24 (2) The person knows or reasonably should know that a child is likely to gain
25 access to the firearm without the permission of the child’s parent or legal guardian.

26 (3) The child obtains access to the firearm and thereby causes death or great
27 bodily injury to the child or any other person.

28 (b) Except as provided in Section 25105, a person commits the crime of
29 “criminal storage of a firearm of the second degree” if all of the following
30 conditions are satisfied:

1 (1) The person keeps any loaded firearm within any premises that are under the
2 person's custody or control.

3 (2) The person knows or reasonably should know that a child is likely to gain
4 access to the firearm without the permission of the child's parent or legal guardian.

5 (3) The child obtains access to the firearm and thereby causes injury, other than
6 great bodily injury, to the child or any other person, or carries the firearm either to
7 a public place or in violation of Section 417.

8 **Comment.** Subdivision (a) of Section 25100 continues former Section 12035(b)(1) without
9 substantive change.

10 Subdivision (b) continues former Section 12035(b)(2) without substantive change.

11 For a provision requiring a firearms dealer to post a notice with warnings about firearm
12 storage, see [Section 12071(b)(7)].

13 See Sections 16520 ("firearm"), 16600 ("great bodily injury"), 16840 ("loaded" and "loaded
14 firearm"), 25000 ("child").

15 **§ 25105. Exceptions**

16 25105. Section 25100 does not apply whenever any of the following occurs:

17 (a) The child obtains the firearm as a result of an illegal entry to any premises by
18 any person.

19 (b) The firearm is kept in a locked container or in a location that a reasonable
20 person would believe to be secure.

21 (c) The firearm is carried on the person or within close enough proximity thereto
22 that the individual can readily retrieve and use the firearm as if carried on the
23 person.

24 (d) The firearm is locked with a locking device, as defined in Section 16860,
25 which has rendered the firearm inoperable.

26 (e) The person is a peace officer or a member of the armed forces or the
27 National Guard and the child obtains the firearm during, or incidental to, the
28 performance of the person's duties.

29 (f) The child obtains, or obtains and discharges, the firearm in a lawful act of
30 self-defense or defense of another person.

31 (g) The person who keeps a loaded firearm on any premise that is under the
32 person's custody or control has no reasonable expectation, based on objective facts
33 and circumstances, that a child is likely to be present on the premises.

34 **Comment.** Section 25105 continues former Section 12035(c) without substantive change.

35 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm"), 16850 ("locked
36 container"), 25000 ("child").

37 **Staff Notes.**

38 (1) Section 12035(a)(1) defines "locking device" for purposes of that section. The definition
39 refers to a device that can be used to render a firearm inoperable. Section 12036(a)(1) gives the
40 same definition for purposes of that section. Proposed Section 16850 would continue Sections
41 12035(a)(1) and 12036(a)(1).

42 The term "locking device" is also used without definition elsewhere, sometimes in a similar
43 context and sometimes in a different context. At some point in the future (not in this
44 nonsubstantive reorganization), it might be appropriate to extend proposed Section 16860's

1 definition of “locking device” to other provisions that refer to a device that can be used to render
2 a firearm inoperable. See Memorandum 2008-17, Attachment p. 32.

3 To help ensure that the applicable definition of this fairly common phrase is not overlooked,
4 the Commission decided to cross-reference that definition in (1) the provision that would
5 continue the pertinent substantive part of existing Section 12035 and (2) the provision that would
6 continue the pertinent substantive part of existing Section 12036. The idea was to draw attention
7 to the definition of “locking device,” yet leave the definition in a location that would be
8 appropriate even if the definition were extended more broadly in the future.

9 Section 25105(d) would implement the first prong of that decision. The Commission and other
10 interested persons should assess whether the chosen approach is satisfactory.

11 (2) Section 12035(c)(6) creates an exception when “[t]he child obtains, or obtains and
12 discharges, the firearm in a lawful act of self-defense or defense of another person, *or persons.*”
13 (Emphasis added.) Proposed Section 25105(f) would continue this provision, but we have omitted
14 the italicized language. It is not necessary to say “person, *or persons,*” because the singular
15 includes the plural. See Section 7.

16 § 25110. Punishment

17 25110. (a) Criminal storage of a firearm in the first degree is punishable by
18 imprisonment in the state prison for 16 months, or two or three years, by a fine not
19 exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine;
20 or by imprisonment in a county jail not exceeding one year, by a fine not
21 exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

22 (b) Criminal storage of a firearm in the second degree is punishable by
23 imprisonment in a county jail not exceeding one year, by a fine not exceeding one
24 thousand dollars (\$1,000), or by both that imprisonment and fine.

25 **Comment.** Section 25110 continues former Section 12035(d) without substantive change.

26 See Section 25100 (criminal storage of firearm).

27 § 25115. Prosecution of parent or guardian

28 25115. If a person who allegedly violated Section 25100 is the parent or
29 guardian of a child who is injured or who dies as the result of an accidental
30 shooting, the district attorney shall consider, among other factors, the impact of
31 the injury or death on the person alleged to have violated Section 25100 when
32 deciding whether to prosecute the alleged violation. It is the Legislature’s intent
33 that a parent or guardian of a child who is injured or who dies as the result of an
34 accidental shooting shall be prosecuted only in those instances in which the parent
35 or guardian behaved in a grossly negligent manner or where similarly egregious
36 circumstances exist. This section shall not otherwise restrict, in any manner, the
37 factors that a district attorney may consider when deciding whether to prosecute an
38 alleged violation of Section 25100.

39 **Comment.** Section 25115 continues former Section 12035(f) without substantive change.

40 See Section 25000 (“child”).

41 § 25120. Timing of prosecution of parent or guardian

42 25120. (a) If a person who allegedly violated Section 25100 is the parent or
43 guardian of a child who was injured or who died as the result of an accidental

1 shooting, no arrest of the person for the alleged violation of Section 25100 shall
2 occur until at least seven days after the date upon which the accidental shooting
3 occurred.

4 (b) In addition to the limitation stated in subdivision (a), before arresting a
5 person for a violation of Section 25100, a law enforcement officer shall consider
6 the health status of a child who suffered great bodily injury as the result of an
7 accidental shooting, if the person to be arrested is the parent or guardian of the
8 injured child. The intent of this section is to encourage law enforcement officials
9 to delay the arrest of a parent or guardian of a seriously injured child while the
10 child remains on life-support equipment or is in a similarly critical medical
11 condition.

12 **Comment.** Section 25120 continues former Section 12035(f) without substantive change.
13 See Sections 16600 (“great bodily injury”), 25000 (“child”).

14 **§ 25125. Impact of attending firearm safety training course**

15 25125. (a) The fact that a person who allegedly violated Section 25100 attended
16 a firearm safety training course prior to the purchase of the firearm that was
17 obtained by a child in violation of Section 25100 shall be considered a mitigating
18 factor by a district attorney when deciding whether to prosecute the alleged
19 violation.

20 (b) In any action or trial commenced under Section 25100, the fact that the
21 person who allegedly violated Section 25100 attended a firearm safety training
22 course prior to the purchase of the firearm that was obtained by a child in violation
23 of Section 25100 is admissible.

24 **Comment.** Section 25125 continues former Section 12035(g) without substantive change.
25 See Sections 16520 (“firearm”), 25000 (“child”).

26 **§ 25130. Posting of required notice**

27 25130. Every person licensed under [Section 12071] shall post within the
28 licensed premises the notice required by [paragraph (7) of subdivision (b) of that
29 section], disclosing the duty imposed by this article upon any person who keeps a
30 loaded firearm.

31 **Comment.** Section 25130 continues former Section 12035(h) without substantive change.
32 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

33 **Staff Note.** This provision might be unnecessary and redundant with the requirement now
34 stated in Section 12071(b)(7). We invite comment on this point. Unless the Commission
35 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for
36 Possible Future Legislative Attention.” See Memorandum 2008-41.

1 CHAPTER 3. STORAGE OF FIREARM WHERE CHILD OBTAINS ACCESS AND
2 CARRIES FIREARM OFF-PREMISES

3 **§ 25200. Storage of firearm where child obtains access and carries firearm off-premises**

4 25200. (a) If all of the following conditions are satisfied, a person shall be
5 punished by imprisonment in a county jail not exceeding one year, by a fine not
6 exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine:

7 (1) The person keeps a pistol, revolver, or other firearm capable of being
8 concealed upon the person, loaded or unloaded, within any premises that are under
9 the person's custody or control.

10 (2) The person knows or reasonably should know that a child is likely to gain
11 access to that firearm without the permission of the child's parent or legal
12 guardian.

13 (3) The child obtains access to that firearm and thereafter carries that firearm
14 off-premises.

15 (b) If all of the following conditions are satisfied, a person shall be punished by
16 imprisonment in a county jail not exceeding one year, by a fine not exceeding five
17 thousand dollars (\$5,000), or by both that imprisonment and fine:

18 (1) The person keeps any firearm within any premises that are under the
19 person's custody or control.

20 (2) The person knows or reasonably should know that a child is likely to gain
21 access to the firearm without the permission of the child's parent or legal guardian.

22 (3) The child obtains access to the firearm and thereafter carries that firearm off-
23 premises to any public or private preschool, elementary school, middle school,
24 high school, or to any school-sponsored event, activity, or performance, whether
25 occurring on school grounds or elsewhere.

26 (c) A pistol, revolver, or other firearm capable of being concealed upon the
27 person that a child gains access to and carries off-premises in violation of this
28 section shall be deemed "used in the commission of any misdemeanor as provided
29 in this code or any felony" for the purpose of [subdivision (b) of Section 12028]
30 regarding the authority to confiscate firearms and other deadly weapons as a
31 nuisance.

32 (d) As used in this section, "off-premises" means premises other than the
33 premises where the firearm was stored.

34 **Comment.** Subdivision (a) of Section 25200 continues former Section 12036(b) without
35 substantive change.

36 Subdivision (b) continues former Section 12036(c) without substantive change.

37 Subdivision (c) continues former Section 12036(d) without substantive change.

38 Subdivision (d) continues former Section 12036(a)(3) without substantive change.

39 For circumstances in which this section does not apply, see Section 25205. For a provision
40 requiring a firearms dealer to post a notice with warnings about firearm storage, see [Section
41 12071(b)(7)].

42 See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person,"
43 "pistol," and "revolver"), 25000 ("child").

1 **☞ Staff Note.** Section 12036(a)(3) defines “off-premises” for purposes of that section. The term
2 is also used without definition elsewhere in Title 2 of Part 4 of the Penal Code.

3 To help ensure that the applicable definition of this commonplace word is not overlooked, the
4 Commission decided to place the definition in close proximity to the substance of Section 12036.
5 See Memorandum 2008-23, p. 2; Minutes (June 2008), pp. 6-9. Proposed Section 25200(d) would
6 implement that decision. The Commission and other interested persons should assess whether this
7 treatment of the definition of “off-premises” is satisfactory.

8 **§ 25205. Exceptions**

9 25205. Section 25200 does not apply if any of the following are true:

10 (a) The child obtains the firearm as a result of an illegal entry into any premises
11 by any person.

12 (b) The firearm is kept in a locked container or in a location that a reasonable
13 person would believe to be secure.

14 (c) The firearm is locked with a locking device, as defined in Section 16860,
15 which has rendered the firearm inoperable.

16 (d) The firearm is carried on the person within close enough range that the
17 individual can readily retrieve and use the firearm as if carried on the person.

18 (e) The person is a peace officer or a member of the Armed Forces or National
19 Guard and the child obtains the firearm during, or incidental to, the performance
20 of the person’s duties.

21 (f) The child obtains, or obtains and discharges, the firearm in a lawful act of
22 self-defense or defense of another person.

23 (g) The person who keeps a firearm has no reasonable expectation, based on
24 objective facts and circumstances, that a child is likely to be present on the
25 premises.

26 **Comment.** Section 25205 continues former Section 12036(e) without substantive change.

27 See Sections 16520 (“firearm”), 16850 (“locked container”), 25000 (“child”).

28 **☞ Staff Notes.**

29 (1) Section 12035(a)(1) defines “locking device” for purposes of that section. The definition
30 refers to a device that can be used to render a firearm inoperable. Section 12036(a)(1) gives the
31 same definition for purposes of that section. Proposed Section 16850 would continue Sections
32 12035(a)(1) and 12036(a)(1).

33 The term “locking device” is also used without definition elsewhere, sometimes in a similar
34 context and sometimes in a different context. At some point in the future (not in this
35 nonsubstantive reorganization), it might be appropriate to extend proposed Section 16860’s
36 definition of “locking device” to other provisions that refer to a device that can be used to render
37 a firearm inoperable. See Memorandum 2008-17, Attachment p. 32.

38 To help ensure that the applicable definition of this fairly common phrase is not overlooked,
39 the Commission decided to cross-reference that definition in (1) the provision that would
40 continue the pertinent substantive part of existing Section 12035 and (2) the provision that would
41 continue the pertinent substantive part of existing Section 12036. The idea was to draw attention
42 to the definition of “locking device,” yet leave the definition in a location that would be
43 appropriate even if the definition were extended more broadly in the future.

44 Section 25205(c) would implement the second prong of that decision. The Commission and
45 other interested persons should assess whether the chosen approach is satisfactory.

1 (2) Section 12036(e)(6) creates an exception when “[t]he child obtains, or obtains and
2 discharges, the firearm in a lawful act of self-defense or defense of another person, *or persons.*”
3 (Emphasis added.) Proposed Section 25205(f) would continue this provision, but we have omitted
4 the italicized language. It is not necessary to say “person, *or persons,*” because the singular
5 includes the plural. See Section 7.

6 **§ 25210. Prosecution of parent or guardian**

7 25210. If a person who allegedly violated Section 25200 is the parent or
8 guardian of a child who is injured or who dies as the result of an accidental
9 shooting, the district attorney shall consider, among other factors, the impact of
10 the injury or death on the person alleged to have violated Section 25200 when
11 deciding whether to prosecute the alleged violation. It is the Legislature’s intent
12 that a parent or guardian of a child who is injured or who dies as the result of an
13 accidental shooting shall be prosecuted only in those instances in which the parent
14 or guardian behaved in a grossly negligent manner or where similarly egregious
15 circumstances exist. This section shall not otherwise restrict, in any manner, the
16 factors that a district attorney may consider when deciding whether to prosecute
17 alleged violations of Section 25200.

18 **Comment.** Section 25210 continues former Section 12036(f) without substantive change.
19 See Section 25000 (“child”).

20 **§ 25215. Timing of prosecution of parent or guardian**

21 25215. (a) If a person who allegedly violated Section 25200 is the parent or
22 guardian of a child who was injured or who died as the result of an accidental
23 shooting, no arrest of the person for the alleged violation of Section 25200 shall
24 occur until at least seven days after the date upon which the accidental shooting
25 occurred.

26 (b) In addition to the limitation contained in subdivision (a), before arresting a
27 person for a violation of Section 25200, a law enforcement officer shall consider
28 the health status of a child who suffers great bodily injury as the result of an
29 accidental shooting, if the person to be arrested is the parent or guardian of the
30 injured child. The intent of this section is to encourage law enforcement officials
31 to delay the arrest of a parent or guardian of a seriously injured child while the
32 child remains on life-support equipment or is in a similarly critical medical
33 condition.

34 **Comment.** Section 25215 continues former Section 12036(g) without substantive change.
35 See Sections 16600 (“great bodily injury”), 25000 (“child”).

36 **§ 25220. Impact of attending firearm safety training course**

37 25220. (a) The fact that the person who allegedly violated Section 25200
38 attended a firearm safety training course prior to the purchase of the firearm that is
39 obtained by a child in violation of Section 25200 shall be considered a mitigating
40 factor by a district attorney when deciding whether to prosecute the alleged
41 violation.

1 (b) In any action or trial commenced under Section 25200, the fact that the
2 person who allegedly violated Section 25200 attended a firearm safety training
3 course prior to the purchase of the firearm that was obtained by a child in violation
4 of Section 25200 is admissible.

5 **Comment.** Section 25220 continues former Section 12036(h) without substantive change.
6 See Sections 16520 (“firearm”), 25000 (“child”).

7 **§ 25225. Posting of required notice**

8 25225. Every person licensed under [Section 12071] shall post within the
9 licensed premises the notice required by [paragraph (7) of subdivision (b) of that
10 section], disclosing the duty imposed by this article upon any person who keeps
11 any firearm.

12 **Comment.** Section 25225 continues former Section 12036(i) without substantive change.
13 See Section 16520 (“firearm”).

14 **☞ Staff Note.** This provision might be unnecessary and redundant with the requirement now
15 stated in Section 12071(b)(7). We invite comment on this point. Unless the Commission
16 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for
17 Possible Future Legislative Attention.” See Memorandum 2008-41.

18 **DIVISION 5. CARRYING FIREARMS**

19 **CHAPTER 1. MISCELLANEOUS RULES RELATING TO CARRYING FIREARMS**

20 **§ 25300. Carrying firearm in public while masked to hide identity**

21 25300. (a) A person commits criminal possession of a firearm when the person
22 carries a firearm in a public place or on any public street while masked so as to
23 hide the person’s identity.

24 (b) Criminal possession of a firearm is punishable by imprisonment in the state
25 prison or by imprisonment in a county jail not to exceed one year.

26 (c) Subdivision (a) does not apply to any of the following:

27 (1) A peace officer in performance of the officer’s duties.

28 (2) A full-time paid peace officer of another state or the federal government who
29 is carrying out official duties while in this state.

30 (3) Any person summoned by any of the officers enumerated in paragraph (1) or
31 (2) to assist in making an arrest or preserving the peace while that person is
32 actually engaged in assisting that officer.

33 (4) The possession of an unloaded firearm or a firearm loaded with blank
34 ammunition by an authorized participant in, or while rehearsing for, a motion
35 picture, television, video production, entertainment event, entertainment activity,
36 or lawfully organized and conducted activity when the participant lawfully uses
37 the firearm as part of that production, event, or activity.

1 (5) The possession of a firearm by a licensed hunter while actually engaged in
2 lawful hunting, or while going directly to or returning directly from the hunting
3 expedition.

4 **Comment.** Section 25300 continues former Section 12040 without substantive change.
5 See Section 16520 (“firearm”).

6 CHAPTER 2. CARRYING A CONCEALED FIREARM

7 Article 1. Crime of Carrying a Concealed Firearm

8 **§ 25400. Crime of carrying concealed firearm**

9 25400. (a) A person is guilty of carrying a concealed firearm when the person
10 does any of the following:

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

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

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

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

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

23 (1) If the person previously has been convicted of any felony, or of any crime
24 made punishable by [this chapter], as a felony.

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

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

31 (4) If the person is not in lawful possession of the firearm or the person is within
32 a class of persons prohibited from possessing or acquiring a firearm pursuant to
33 [Section 12021 or 12021.1 of this code] or [Section 8100 or 8103 of the Welfare
34 and Institutions Code], as a felony.

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

1 (6) If both of the following conditions are met, by imprisonment in the state
2 prison, or by imprisonment in a county jail not to exceed one year, by a fine not to
3 exceed one thousand dollars (\$1,000), or by both that fine and imprisonment:

4 (A) The pistol, revolver, or other firearm capable of being concealed upon the
5 person is loaded, or both it and the unexpended ammunition capable of being
6 discharged from it are in the immediate possession of the person or readily
7 accessible to that person.

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

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

14 (d)(1) Every person convicted under this section who previously has been
15 convicted of a misdemeanor offense enumerated in [Section 12001.6] shall be
16 punished by imprisonment in a county jail for at least three months and not
17 exceeding six months, or, if granted probation, or if the execution or imposition of
18 sentence is suspended, it shall be a condition thereof that the person be imprisoned
19 in a county jail for at least three months.

20 (2) Every person convicted under this section who has previously been
21 convicted of any felony, or of any crime made punishable by [this chapter], if
22 probation is granted, or if the execution or imposition of sentence is suspended, it
23 shall be a condition thereof that the person be imprisoned in a county jail for not
24 less than three months.

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

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

39 **Comment.** Subdivision (a) of Section 25400 continues former Section 12025(a) without
40 substantive change.

41 Subdivision (b) continues former Section 12025(f) without substantive change.

42 Subdivision (c) continues former Section 12025(b) without substantive change.

43 Subdivision (d) continues former Section 12025 (d) without substantive change.

44 Subdivision (e) continues former Section 12025(e) without substantive change.

1 Subdivision (f) continues former Section 12025(c) without substantive change.
2 Former Section 12025(g) is continued in Section 16750 (“lawful possession of the firearm”).
3 Former Section 12025(h) was repealed by its own terms on January 1, 2005, so it is not
4 continued. See 1999 Cal. Stat. ch. 571, § 2.
5 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
6 “pistol,” and “revolver”), 16750 (“lawful possession of the firearm”), 16840 (“loaded” and
7 “loaded firearm”).

8 **☞ Staff Notes.**

9 (1) Subdivision (h) of existing Section 12025 provides:

10 (h)(1) The district attorney of each county shall submit annually a report on or before June
11 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any
12 person charged with a felony or a misdemeanor under this section and any other offense
13 charged in the same complaint, indictment, or information.

14 (2) The Attorney General shall submit annually, a report on or before December 31, to the
15 Legislature compiling all of the reports submitted pursuant to paragraph (1).

16 (3) *This subdivision shall remain operative until January 1, 2005, and as of that date shall*
17 *be repealed.*

18 (Emphasis added.) Because this provision only remained operative until January 1, 2005, and was
19 to be repealed by its own terms as of that date, the staff did not continue it in proposed Section
20 25400, but did refer to it in the Comment. We solicit comment on whether that treatment of
21 subdivision (h) is appropriate.

22 (2) Existing Section 12025 is a long section (over two pages in the attachment to Memorandum
23 2007-59). In redrafting the section, the staff considered the possibility of dividing its substance
24 into several different sections. We decided, however, that the potential benefits of that approach
25 did not outweigh the potential detriments. Aside from eliminating subdivision (h) and placing
26 subdivision (g)’s definition of “lawful possession of the firearm” with other definitions, we kept
27 the entire substance intact in drafting proposed Section 25400. We solicit comment on that
28 drafting decision.

29 (3) Existing Section 12025(b)(3) specifies the punishment for a violation of the section
30 “[w]here the person is an active participant in a criminal street gang, as defined in subdivision (a)
31 of Section 186.22” The definition of a “criminal street gang” is located in subdivision (f) of
32 Section 186.22, not subdivision (a). But subdivision (a) provides guidance on what level of
33 involvement in a criminal street gang is punishable:

34 (a) Any person who actively participates in any criminal street gang with knowledge that
35 its members engage in or have engaged in a pattern of criminal gang activity, and who
36 willfully promotes, furthers, or assists in any felonious criminal conduct by members of that
37 gang, shall be punished by imprisonment in a county jail for a period not to exceed one year,
38 or by imprisonment in the state prison for 16 months, or two or three years.

39 The staff has assumed that the Legislature intended to cross-refer to subdivision (a), not
40 subdivision (f). Proposed Section 25400 would thus continue the existing cross-reference.

41 (4) Existing Section 12025(b)(6)(A) refers to a pistol, revolver, or other firearm capable of
42 being concealed upon the person that is “loaded *as defined in subdivision (g) of Section 12031.*”
43 (Emphasis added.) Unlike existing Section 12025(b)(6)(A), proposed Section 25400(c)(6)(A)
44 would not cross-refer to the provision defining “loaded.”

45 Similarly, existing Section 12025(b)(4) refers to a person who “not in lawful possession of the
46 firearm, as defined in this section” Unlike existing Section 12025(b)(4), proposed Section
47 25400(c)(4) would not cross-refer to the definition of “lawful possession of the firearm.”

48 Instead, the Comment would cross-refer to the definitions of “loaded” and “lawful possession
49 of the firearm.” The Comment would also state that “[s]ubdivision (c) continues former Section

1 12025(b) without substantive change.” The definition of “loaded” is drafted to encompass
2 proposed Section 25400, as is the definition of “lawful possession of the firearm.”

3 We chose this approach because it would further the Legislature’s directive to “[a]void
4 unnecessary use of cross-references” while “[n]either expand[ing] nor contracting the scope of
5 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
6 weight to the Commission’s Comments, we think this would be sufficient to preserve the
7 substance of Section 12025(b)(4) & (6)(A). See *2006-2007 Annual Report*, 36 Cal. L. Revision
8 Comm’n Reports 1, 18-24 (2006).

9 Article 2. Peace Officer Exemption

10 **☞ Staff Note.** Existing law contains extensive provisions relating to identification certificates
11 for retired peace officers and endorsements on those certificates authorizing officers to (1) carry a
12 concealed firearm, (2) carry a loaded firearm, or (3) carry a concealed and loaded firearm. The
13 current and proposed future locations of those provisions are as follows:

- 14 • Existing Section 12027(a) (peace officer exemption to crime of carrying concealed
15 firearm). This material would be recodified as proposed Sections 25450-25475.
- 16 • Existing Section 12031(b)(1)-(3) (peace officer exemption to crime of carrying loaded
17 firearm in public). This material would be recodified as proposed Sections 25900-25925.
- 18 • Existing Section 12027.1 (retired peace officer carrying concealed and loaded firearm).
19 This material would be recodified as proposed Sections 26300-26325.

20 There is much repetition among these three separate sets of statutory material, albeit in
21 different contexts. The material could perhaps be reorganized more concisely, without any change
22 in meaning.

23 To avoid any risk of a substantive change, the staff advises against attempting such
24 reorganization in the context of this nonsubstantive study. Unless the Commission otherwise
25 directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible
26 Future Legislative Attention.” See Memorandum 2008-41.

27 § 25450. Peace officer exemption

28 25450. As provided in this article, Section 25400 does not apply to, or affect,
29 any of the following:

30 (a) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of
31 Section 830.33, whether active or honorably retired.

32 (b) Any other duly appointed peace officer.

33 (c) Any honorably retired peace officer listed in subdivision (c) of Section
34 830.5.

35 (d) Any other honorably retired peace officer who during the course and scope
36 of employment as a peace officer was authorized to, and did, carry a firearm.

37 (e) Any full-time paid peace officer of another state or the federal government
38 who is carrying out official duties while in California.

39 (f) Any person summoned by any of these officers to assist in making arrests or
40 preserving the peace while the person is actually engaged in assisting that officer.

41 **Comment.** Section 25450 continues the first sentence of former Section 12027(a)(1)(A)
42 without substantive change.

43 For an exemption relating to honorably retired federal officers and agents, see Section 25650.

1 For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.
2 For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections
3 26300-26325.

4 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

5 **§ 25455. Identification certificate for honorably retired peace officer**

6 25455. (a) Any peace officer described in Section 25450 who has been
7 honorably retired shall be issued an identification certificate by the law
8 enforcement agency from which the officer retired.

9 (b) The issuing agency may charge a fee necessary to cover any reasonable
10 expenses incurred by the agency in issuing certificates pursuant to this article.

11 (c) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision
12 (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to
13 January 1, 1981, shall have an endorsement on the identification certificate stating
14 that the issuing agency approves the officer’s carrying of a concealed firearm.

15 (d) An honorably retired peace officer listed in Section 830.1 or 830.2,
16 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired
17 prior to January 1, 1981, shall not be required to obtain an endorsement from the
18 issuing agency to carry a concealed firearm.

19 **Comment.** Subdivision (a) of Section 25455 continues the second sentence of former Section
20 12027(a)(1)(A) without substantive change.

21 Subdivision (b) continues the third sentence of former Section 12027(a)(1)(A) without
22 substantive change.

23 Subdivision (c) continues former Section 12027(a)(1)(B) without substantive change.

24 Subdivision (d) continues the second sentence of former Section 12027(a)(2) without
25 substantive change.

26 For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.
27 For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections
28 26300-26325.

29 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

30 **§ 25460. Format of endorsement on identification certificate**

31 25460. (a) Except as provided in subdivision (b), no endorsement or renewal
32 endorsement issued pursuant to Section 25465 shall be effective unless it is in the
33 format set forth in subdivision (c).

34 (b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision
35 (c) of Section 830.5, who retired between January 2, 1981, and on or before
36 December 31, 1988, and who is authorized to carry a concealed firearm pursuant
37 to this article, shall not be required to have an endorsement in the format set forth
38 in subdivision (c) until the time of the issuance, on or after January 1, 1989, of a
39 renewal endorsement pursuant to Section 25465.

40 (c) A certificate issued pursuant to Section 25455 for any person who is not
41 listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision
42 (c) of Section 830.5, or for any person retiring after January 1, 1981, shall be in
43 the following format: it shall be on a 2x3 inch card, bear the photograph of the
44 retiree, include the retiree’s name, date of birth, the date that the retiree retired,

1 and the name and address of the agency from which the retiree retired, and have
2 stamped on it the endorsement “CCW Approved” and the date the endorsement is
3 to be renewed. A certificate issued pursuant to Section 25455 shall not be valid as
4 identification for the sale, purchase, or transfer of a firearm.

5 **Comment.** Subdivisions (a) and (b) of Section 25460 continue former Section 12027(a)(1)(C)
6 without substantive change.

7 Subdivision (c) continues former Section 12027(a)(1)(D) without substantive change.

8 See Sections 16360 (“CCW”), 16520 (“firearm”).

9 **Staff Note.** The substance of proposed Section 25460(b) may be obsolete. The staff solicits
10 comment on this point. Unless the Commission otherwise directs, we will add this issue to the
11 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See
12 Memorandum 2008-41.

13 **§ 25465. Renewal of privilege to carry concealed firearm**

14 25465. Every five years, a retired peace officer, except an officer listed in
15 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of
16 Section 830.5 who retired prior to January 1, 1981, shall petition the issuing
17 agency for renewal of the officer’s privilege to carry a concealed firearm.

18 **Comment.** Section 25465 continues the first sentence of former Section 12027(a)(2) without
19 substantive change.

20 See Section 16520 (“firearm”).

21 **§ 25470. Denial or revocation of privilege to carry concealed firearm**

22 25470. (a) The agency from which a peace officer is honorably retired may,
23 upon initial retirement of that peace officer, or at any time subsequent thereto,
24 deny or revoke for good cause the retired officer’s privilege to carry a concealed
25 firearm.

26 (b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of
27 Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1,
28 1981, shall have the privilege to carry a concealed firearm denied or revoked by
29 having the agency from which the officer retired stamp on the officer’s
30 identification certificate “No CCW privilege.”

31 **Comment.** Subdivision (a) of Section 25470 continues the third sentence of former Section
32 12027(a)(2) without substantive change.

33 Subdivision (b) continues the fourth sentence of former Section 12027(a)(2) without
34 substantive change.

35 See Sections 16360 (“CCW”), 16520 (“firearm”), 16690 (“honorably retired”).

36 **§ 25475. Maintaining privilege to carry concealed firearm**

37 25475. (a) An honorably retired peace officer who is listed in subdivision (c) of
38 Section 830.5 and authorized to carry a concealed firearm by this article shall meet
39 the training requirements of Section 832 and shall qualify with the firearm at least
40 annually.

41 (b) The individual retired peace officer shall be responsible for maintaining
42 eligibility to carry a concealed firearm.

1 (c) The Department of Justice shall provide subsequent arrest notification
2 pursuant to Section 11105.2 regarding honorably retired peace officers listed in
3 subdivision (c) of Section 830.5 to the agency from which the officer has retired.

4 **Comment.** Section 25475 continues former Section 12027(a)(3) without substantive change.
5 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

6 Article 3. Conditional Exemptions

7 § 25500. Effect of article

8 25500. This article does not prohibit or limit the otherwise lawful carrying or
9 transportation of any pistol, revolver, or other firearm capable of being concealed
10 upon the person in accordance with [this chapter].

11 **Comment.** Section 25500 continues former Section 12026.2(c) without substantive change.
12 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
13 “revolver”).

14 § 25505. Conditions for exemption to apply

15 25505. In order for a firearm to be exempted under this article, while being
16 transported to or from a place, the firearm shall be unloaded and kept in a locked
17 container, and the course of travel shall include only those deviations between
18 authorized locations as are reasonably necessary under the circumstances.

19 **Comment.** Section 25505 continues former Section 12026.2(b) without substantive change.
20 For another provision on transporting a firearm in a locked container, see Section 25610
21 (carrying firearm in locked container).
22 See Sections 16520 (“firearm”), 16850 (“locked container”).

23 § 25510. Motion picture, television, video production, or entertainment event

24 25510. Section 25400 does not apply to, or affect, any of the following:

25 (a) The possession of a firearm by an authorized participant in a motion picture,
26 television, or video production, or an entertainment event, when the participant
27 lawfully uses the firearm as part of that production or event, or while going
28 directly to, or coming directly from, that production or event.

29 (b) The transportation of a firearm by an authorized employee or agent of a
30 supplier of firearms when going directly to, or coming directly from, a motion
31 picture, television, or video production, or an entertainment event, for the purpose
32 of providing that firearm to an authorized participant to lawfully use as a part of
33 that production or event.

34 **Comment.** Subdivision (a) of Section 25510 continues former Section 12026.2(a)(1) without
35 substantive change.

36 Subdivision (b) continues former Section 12026.2(a)(8) without substantive change.

37 For conditions on invoking these exemptions, see Section 25505.

38 See Section 16520 (“firearm”).

1 **§ 25515. Club or organization for lawfully collecting and displaying firearms**

2 25515. Section 25400 does not apply to, or affect, the possession of a firearm in
3 a locked container by a member of any club or organization, organized for the
4 purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other
5 firearms, while the member is at a meeting of the club or organization or while
6 going directly to, and coming directly from, a meeting of the club or organization.

7 **Comment.** Section 25515 continues former Section 12026.2(a)(2) without substantive change.
8 For conditions on invoking this exemption, see Section 25505. For an exemption relating to
9 transportation of a curio or relic brought into the state by licensed collector, see Section 25580.

10 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
11 “pistol,” and “revolver”), 16850 (“locked container”).

12 **§ 25520. Recognized sporting event or safety or hunter safety class**

13 25520. Section 25400 does not apply to, or affect, the transportation of a firearm
14 by a participant when going directly to, or coming directly from, a recognized
15 safety or hunter safety class, or a recognized sporting event involving that firearm.

16 **Comment.** Section 25520 continues former Section 12026.2(a)(3) without substantive change.
17 For conditions on invoking this exemption, see Section 25505. For another exemption relating
18 to hunting, see Section 25640 (licensed hunters or fishermen).

19 See Section 16520 (“firearm”).

20 **§ 25525. Transportation of firearm by owner or person in lawful possession to place of**
21 **residence, place of business, or other private property of that person**

22 25525. (a) Section 25400 does not apply to, or affect, the transportation of a
23 firearm by any citizen of the United States or legal resident over the age of 18
24 years who resides or is temporarily within this state, and who is not within the
25 excepted classes prescribed by [Section 12021 or 12021.1 of this code] or Section
26 8100 or 8103 of the Welfare and Institutions Code, directly between any of the
27 following places:

28 (1) The person’s place of residence.

29 (2) The person’s place of business.

30 (3) Private property owned or lawfully possessed by the person.

31 (b) Section 25400 does not apply to, or affect, the transportation of a firearm by
32 a person listed in subdivision (a) when going directly from the place where that
33 person lawfully received that firearm to that person’s place of residence or place
34 of business or to private property owned or lawfully possessed by that person.

35 **Comment.** Subdivision (a) of Section 25525 continues former Section 12026.2(a)(4) without
36 substantive change.

37 Subdivision (b) continues former Section 12026.2(a)(6) without substantive change.

38 For conditions on invoking these exemptions, see Section 25505. For an exemption relating to
39 carrying or possession of a firearm at one’s place of residence, place of business, or other private
40 property, see Section 25605.

41 See Section 16520 (“firearm”).

42 **Staff Note.** Existing Section 12026.2(a)(4) says that Section 12025 does not apply to or affect
43 the “transportation of a firearm by a person listed in Section 12026 directly between any of the
44 places mentioned in Section 12026.” (Emphasis added.) Similarly, existing Section 12026.2(a)(6)

1 says that Section 12025 does not apply to or affect the “transportation of a firearm by *a person*
2 *listed in Section 12026* when going directly from” (Emphasis added.) The meaning of these
3 provisions cannot be discerned without referring to Section 12026.

4 To make the provisions more user-friendly, we have incorporated the relevant substance of
5 Section 12026 into proposed Section 25525. We solicit comment on that approach.

6 **§ 25530. Repair, transfer, sale, or loan of firearm**

7 25530. Section 25400 does not apply to, or affect, the transportation of a firearm
8 by a person when going directly to, or coming directly from, a fixed place of
9 business or private residential property for the purpose of the lawful repair or the
10 lawful transfer, sale, or loan of that firearm.

11 **Comment.** Section 25530 continues former Section 12026.2(a)(5) without substantive change.
12 For conditions on invoking this exemption, see Section 25505.
13 See Section 16520 (“firearm”).

14 **§ 25535. Gun show, swap meet, or similar event**

15 25535. Section 25400 does not apply to, or affect, any of the following:

16 (a) The transportation of a firearm by a person when going directly to, or
17 coming directly from, a gun show, swap meet, or similar event to which the public
18 is invited, for the purpose of displaying that firearm in a lawful manner.

19 (b) The transportation of a firearm by a person when going directly to, or
20 coming directly from, a gun show or event, as defined in Section 478.100 of Title
21 27 of the Code of Federal Regulations, for the purpose of lawfully transferring,
22 selling, or loaning that firearm in accordance with [subdivision (d) of Section
23 12072].

24 **Comment.** Subdivision (a) of Section 25535 continues former Section 12026.2(a)(7) without
25 substantive change.

26 Subdivision (b) continues former Section 12026.2(a)(14) without substantive change.

27 For conditions on invoking these exemptions, see Section 25505.

28 See Section 16520 (“firearm”).

29 **§ 25540. Target range**

30 25540. Section 25400 does not apply to, or affect, the transportation of a firearm
31 by a person when going directly to, or coming directly from, a target range, which
32 holds a regulatory or business license, for the purposes of practicing shooting at
33 targets with that firearm at that target range.

34 **Comment.** Section 25540 continues former Section 12026.2(a)(9) without substantive change.

35 For conditions on invoking this exemption, see Section 25505. For another exemption relating
36 to practicing at a target range, see Section 25635 (member of club or organization for purpose of
37 practicing at established target ranges).

38 See Section 16520 (“firearm”).

39 **§ 25545. Transportation to place designated by person authorized to issue license to carry**
40 **firearm**

41 25545. Section 25400 does not apply to, or affect, the transportation of a firearm
42 by a person when going directly to, or coming directly from, a place designated by

1 a person authorized to issue licenses pursuant to [Section 12050], when done at the
2 request of the issuing agency so that the issuing agency can determine whether or
3 not a license should be issued to that person to carry that firearm.

4 **Comment.** Section 25545 continues former Section 12026.2(a)(10) without substantive
5 change.

6 For conditions on invoking this exemption, see Section 25505. For an exemption relating to a
7 person with a license to carry a concealed pistol, revolver, or other firearm capable of being
8 concealed upon the person, see Section 25655.

9 See Section 16520 (“firearm”).

10 § 25550. Camping

11 25550. (a) Section 25400 does not apply to, or affect, the transportation of a
12 firearm by a person when going directly to, or coming directly from, a lawful
13 camping activity for the purpose of having that firearm available for lawful
14 personal protection while at the lawful campsite.

15 (b) This section shall not be construed to override the statutory authority granted
16 to the Department of Parks and Recreation or any other state or local
17 governmental agencies to promulgate rules and regulations governing the
18 administration of parks and campgrounds.

19 **Comment.** Section 25550 continues former Section 12026.2(a)(11) without substantive
20 change.

21 For conditions on invoking this exemption, see Section 25505.

22 See Section 16520 (“firearm”).

23 § 25555. Person taking title or possession of firearm by operation of law, or person receiving 24 firearm by gift, bequest, intestate succession, or other means from immediate family 25 member

26 25555. Section 25400 does not apply to, or affect, the transportation of a firearm
27 by a person in order to comply with [subdivision (c) or (i) of Section 12078] as it
28 pertains to that firearm.

29 **Comment.** Section 25555 continues former Section 12026.2(a)(12) without substantive
30 change.

31 For conditions on invoking this exemption, see Section 25505.

32 See Section 16520 (“firearm”).

33 **Staff Note.** Existing Section 12026.2(a)(12) says that Section 12025 does not apply to or
34 affect the “transportation of a firearm by a person *in order to comply with subdivision (c) or (i) of*
35 *Section 12078* as it pertains to that firearm.” (Emphasis added.) The meaning of this provision
36 cannot be discerned without referring to Section 12078.

37 In drafting proposed Section 25555, the staff considered the possibility of making the provision
38 more user-friendly by incorporating the relevant substance of Section 12078(c) and (i). We opted
39 against that approach, however, because the relevant substance of Section 12078(c) and (i) is too
40 complicated to readily incorporate.

41 Some indication of the nature of Section 12078(c) and (i) would be provided by the leadline for
42 proposed Section 25555 (“Person taking title or possession of firearm by operation of law, or
43 person receiving firearm by gift, bequest, intestate succession, or other means from immediate
44 family member”). Like all leadlines in Commission recommendations, that leadline would not
45 become law. But it could serve as a model for code publishers in preparing their own leadlines for
46 the provision.

1 **§ 25560. Transportation of firearm to utilize Section 12078(l)**

2 25560. Section 25400 does not apply to, or affect, the transportation of a firearm
3 by a person in order to utilize [subdivision (l) of Section 12078] as it pertains to
4 that firearm.

5 **Comment.** Section 25560 continues former Section 12026.2(a)(13) without substantive
6 change.

7 For conditions on invoking this exemption, see Section 25505.

8 See Section 16520 (“firearm”).

9 ☞ **Staff Note.** Existing Section 12026.2(a)(13) says that Section 12025 does not apply to or
10 affect the “transportation of a firearm by a person *in order to utilize subdivision (l) of Section*
11 *12078* as it pertains to that firearm.” (Emphasis added.) The meaning of this provision cannot be
12 discerned without referring to existing Section 12078.

13 In drafting proposed Section 25560, the staff considered the possibility of making the provision
14 more user-friendly by incorporating the relevant substance of existing Section 12078(l). We opted
15 against that approach, however, because it is not entirely clear what substance of existing Section
16 12078(l) would need to be incorporated.

17 The staff also considered the possibility of giving some indication of the nature of Section
18 12078(l) in the leadline for proposed Section 25560. But Section 12078(l) provides:

19 (l) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not
20 required by law to report his or her acquisition, ownership, or disposal of a handgun or who
21 moves out of this state with his or her handgun may submit a report of the same to the
22 Department of Justice in a format prescribed by the department.

23 Because the provision covers multiple situations and cross-refers to Section 12072(d), which
24 itself cross-refers to Sections 12071 and 12082, it would be difficult to draft a leadline that
25 effectively conveys the nature of the provision. We welcome any suggestions on this matter.

26 **§ 25565. Sale, delivery, or transfer of firearm to governmental entity as part of program**
27 **where entity is buying or receiving weapons from private individuals**

28 25565. Section 25400 does not apply to, or affect, the transportation of a firearm
29 by a person in order to sell, deliver, or transfer the firearm as specified in
30 [paragraph (6) of subdivision (a) of Section 12078] to an authorized representative
31 of a city, city and county, county, or state or federal government that is acquiring
32 the weapon as part of an authorized, voluntary program in which the entity is
33 buying or receiving weapons from private individuals.

34 **Comment.** Section 25565 continues former Section 12026.2(a)(15) without substantive
35 change.

36 For conditions on invoking this exemption, see Section 25505.

37 See Section 16520 (“firearm”).

38 ☞ **Staff Note.** Existing Section 12026.2(a)(15) says that Section 12025 does not apply to or
39 affect the “transportation of a firearm by a person *in order to utilize paragraph (6) of subdivision*
40 *(a) of Section 12078* as it pertains to that firearm.” (Emphasis added.) The meaning of this
41 provision cannot be discerned without referring to existing Section 12078.

42 In drafting proposed Section 25565, the staff attempted to make the provision more user-
43 friendly by incorporating the relevant substance of existing Section 12078(a)(6), which provides:

44 (6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do not apply
45 to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and
46 counties, counties, or state or federal governments for those governmental agencies where the

1 entity is acquiring the weapon as part of an authorized, voluntary program where the entity is
2 buying or receiving weapons from private individuals. Any weapons acquired pursuant to this
3 paragraph shall be disposed of pursuant to the applicable provisions of Section 12028 or
4 12032.

5 We solicit comment on that approach.

6 **§ 25570. Transportation of firearm by finder to law enforcement agency**

7 25570. Section 25400 does not apply to, or affect, any of the following:

8 (a) The transportation of a firearm by a person who finds the firearm, if the
9 person is transporting the firearm in order to comply with Article 1 (commencing
10 with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to
11 that firearm, and, if the person is transporting the firearm to a law enforcement
12 agency, the person gives prior notice to the law enforcement agency that the
13 person is transporting the firearm to the law enforcement agency.

14 (b) The transportation of a firearm by a person who finds the firearm and is
15 transporting it to a law enforcement agency for disposition according to law, if the
16 person gives prior notice to the law enforcement agency that the person is
17 transporting the firearm to the law enforcement agency for disposition according
18 to law.

19 **Comment.** Subdivision (a) of Section 25570 continues former Section 12026.2(a)(16) without
20 substantive change.

21 Subdivision (b) continues former Section 12026.2(a)(18) without substantive change.

22 For conditions on invoking these exemptions, see Section 25505.

23 See Section 16520 (“firearm”).

24 **§ 25575. Compliance with restrictions relating to importation of handgun by personal**
25 **handgun importer**

26 25575. Section 25400 does not apply to, or affect, the transportation of a firearm
27 by a person in order to comply with [paragraph (2) of subdivision (f) of Section
28 12072] as it pertains to that firearm.

29 **Comment.** Section 25575 continues former Section 12026.2(a)(17) without substantive
30 change.

31 For conditions on invoking this exemption, see Section 25505. For an exemption relating to
32 transportation of unloaded handguns by a licensed manufacturer, importer, wholesaler, repairer,
33 or dealer, see Section 25615.

34 See Section 16520 (“firearm”).

35 **Staff Note.** Existing Section 12026.2(a)(17) says that Section 12025 does not apply to or
36 affect the “transportation of a firearm by a person *in order to comply with paragraph (2) of*
37 *subdivision (f) of Section 12072* as it pertains to that firearm.” (Emphasis added.) The meaning of
38 this provision cannot be discerned without referring to existing Section 12072(f)(2).

39 In drafting proposed Section 25560, the staff considered the possibility of making the provision
40 more user-friendly by incorporating the relevant substance of existing Section 12072(f)(2). We
41 opted against that approach, however, because Section 12072(f)(2) is long and it is not entirely
42 clear which of its substance would need to be incorporated.

43 Some indication of the nature of Section 12072(f)(2) would be provided by the leadline for
44 proposed Section 25575 (“Compliance with restrictions relating to importation of handgun by
45 personal handgun importer”). Like all leadlines in Commission recommendations, that leadline

1 would not become law. But it could serve as a model for code publishers in preparing their own
2 leadlines for the provision.

3 **§ 25580. Transportation of curio or relic brought into state by licensed collector**

4 25580. Section 25400 does not apply to, or affect, the transportation of a firearm
5 that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of
6 Federal Regulations, by a person in order to comply with [paragraph (3) of
7 subdivision (f) of Section 12072] as it pertains to that firearm.

8 **Comment.** Section 25580 continues former Section 12026.2(a)(19) without substantive
9 change.

10 For conditions on invoking this exemption, see Section 25505. For an exemption relating to a
11 club or organization for lawfully collecting and displaying firearms, see Section 25515.

12 See Section 16520 (“firearm”).

13 **Staff Note.** Existing Section 12026.2(a)(19) says that Section 12025 does not apply to or
14 affect the “transportation of a firearm by a person *in order to comply with paragraph (3) of*
15 *subdivision (f) of Section 12072* as it pertains to that firearm.” (Emphasis added.) The meaning of
16 this provision cannot be discerned without referring to existing Section 12072(f)(3).

17 In drafting proposed Section 25560, the staff considered the possibility of making the provision
18 more user-friendly by incorporating the relevant substance of existing Section 12072(f)(3).
19 Because Section 12072(f)(3) is detailed and complicated, we largely opted against that approach.

20 We did, however, incorporate language indicating that the exemption only applies to “a firearm
21 that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal
22 Regulations.” It is clear that Section 12072(f)(3) is limited to this type of firearm. Stating that
23 limitation in proposed Section 25580 would not change the substance of the exemption, but
24 would make readily apparent that the exemption is inapplicable to a firearm other than a curio or
25 relic.

26 Further indication of the nature of Section 12072(f)(3) would be provided by the leadline for
27 proposed Section 25575 (“Transportation of curio or relic brought into state by licensed
28 collector”). Like all leadlines in Commission recommendations, that leadline would not become
29 law. But it could serve as a model for code publishers in preparing their own leadlines for the
30 provision.

31 **§ 25585. Transportation of firearm to obtain identification number or mark**

32 25585. Section 25400 does not apply to, or affect, the transportation of a firearm
33 by a person for the purpose of obtaining an identification number or mark assigned
34 to that firearm from the Department of Justice pursuant to [Section 12092].

35 **Comment.** Section 25585 continues former Section 12026.2(a)(20) without substantive
36 change.

37 For conditions on invoking this exemption, see Section 25505.

38 See Section 16520 (“firearm”).

39 **Article 4. Other Exemptions**

40 **§ 25600. Carrying concealed firearm when in reasonable belief of grave danger to self**

41 25600. (a) A violation of Section 25400 is justifiable when a person who
42 possesses a firearm reasonably believes that person is in grave danger because of
43 circumstances forming the basis of a current restraining order issued by a court
44 against another person who has been found to pose a threat to the life or safety of

1 the person who possesses the firearm. This section may not apply when the
2 circumstances involve a mutual restraining order issued pursuant to Division 10
3 (commencing with Section 6200) of the Family Code absent a factual finding of a
4 specific threat to the person’s life or safety. It is not the intent of the Legislature to
5 limit, restrict, or narrow the application of current statutory or judicial authority to
6 apply this or other justifications to a defendant charged with violating Section
7 25400 or committing another similar offense.

8 (b) Upon trial for violating Section 25400, the trier of fact shall determine
9 whether the defendant was acting out of a reasonable belief that the defendant was
10 in grave danger.

11 **Comment.** Section 25600 continues former Section 12025.5 without substantive change.
12 See Section 16520 (“firearm”).

13 **§ 25605. Carrying or possession of firearm at one’s place of residence, place of business, or**
14 **other private property**

15 25605. (a) Section 25400 shall not apply to or affect any citizen of the United
16 States or legal resident over the age of 18 years who resides or is temporarily
17 within this state, and who is not within the excepted classes prescribed by [Section
18 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and
19 Institutions Code, who carries, either openly or concealed, anywhere within the
20 citizen’s or legal resident’s place of residence, place of business, or on private
21 property owned or lawfully possessed by the citizen or legal resident, any pistol,
22 revolver, or other firearm capable of being concealed upon the person.

23 (b) No permit or license to purchase, own, possess, keep, or carry, either openly
24 or concealed, shall be required of any citizen of the United States or legal resident
25 over the age of 18 years who resides or is temporarily within this state, and who is
26 not within the excepted classes prescribed by [Section 12021 or 12021.1 of this
27 code] or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase,
28 own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other
29 firearm capable of being concealed upon the person within the citizen’s or legal
30 resident’s place of residence, place of business, or on private property owned or
31 lawfully possessed by the citizen or legal resident.

32 (c) Nothing in this section shall be construed as affecting the application of
33 [Section 12031].

34 **Comment.** Section 25605 continues former Section 12026 without substantive change.

35 For an exemption relating to transportation of a firearm by the owner or a person in lawful
36 possession of the firearm to that person’s place of residence, place of business, or other private
37 property, see Section 25525.

38 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
39 “revolver”).

40 **§ 25610. Carrying firearm in locked container**

41 25610. (a) Section 25400 shall not be construed to prohibit any citizen of the
42 United States over the age of 18 years who resides or is temporarily within this

1 state, and who is not within the excepted classes prescribed by [Section 12021 or
2 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions
3 Code, from transporting or carrying any pistol, revolver, or other firearm capable
4 of being concealed upon the person, provided that the following applies to the
5 firearm:

6 (1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk
7 or in a locked container in the vehicle.

8 (2) The firearm is carried by the person directly to or from any motor vehicle for
9 any lawful purpose and, while carrying the firearm, the firearm is contained within
10 a locked container.

11 (b) The provisions of this section do not prohibit or limit the otherwise lawful
12 carrying or transportation of any pistol, revolver, or other firearm capable of being
13 concealed upon the person in accordance with [this chapter].

14 **Comment.** Subdivision (a) of Section 25610 continues former Section 12026.1(a) without
15 substantive change, except for the last phrase of paragraph (a)(1) ("other than the utility or glove
16 compartment"). That phrase and former Section 12026.1(c) are continued in Section 16850
17 ("locked container").

18 Subdivision (b) continues former Section 12026.1(b) without substantive change.

19 For another provision on transporting a firearm in a locked container, see Section 25505
20 (conditions for Article 3 exemptions to apply).

21 See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person,"
22 "pistol," and "revolver"), 16850 ("locked container").

23 **§ 25615. Transportation of unloaded handguns by licensed manufacturer, importer,
24 wholesaler, repairer, or dealer**

25 25615. Section 25400 does not apply to, or affect, the possession or
26 transportation of unloaded pistols, revolvers, or other firearms capable of being
27 concealed upon the person as merchandise by a person who is engaged in the
28 business of manufacturing, importing, wholesaling, repairing, or dealing in
29 firearms and who is licensed to engage in that business, or the authorized
30 representative or authorized agent of that person, while engaged in the lawful
31 course of the business.

32 **Comment.** Section 25615 continues former Section 12027(b) without substantive change.

33 For an exemption relating to compliance with restrictions on importation of handguns by a
34 personal handgun importer, see Section 25575.

35 See Section 16530 ("firearm capable of being concealed upon the person," "pistol," and
36 "revolver").

37 **§ 25620. Member of military on duty or organization authorized by law to purchase or
38 receive weapons**

39 25620. Section 25400 does not apply to, or affect, any member of the Army,
40 Navy, Air Force, Coast Guard, or Marine Corps of the United States, or the
41 National Guard, when on duty, or any organization that is by law authorized to
42 purchase or receive those weapons from the United States or this state.

43 **Comment.** Section 25620 continues former Section 12027(c) without substantive change.

1 For an exemption relating to parading by a duly authorized military or civil organization, or
2 traveling to a meeting of such an organization, see Section 25625.

3 **☞ Staff Note.** Existing Section 12027(c) provides:

4 12027. Section 12025 does not apply to, or affect, any of the following:

5

6 (c) Members of the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United
7 States, or the National Guard, when on duty, or organizations which are by law authorized to
8 purchase or receive *those weapons* from the United States or this state.

9 (Emphasis added.) The phrase “those weapons” is not clear in the context of this sentence. It
10 would be better to use a more precise phrase instead. Unless the Commission otherwise directs,
11 we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible Future
12 Legislative Attention.” See Memorandum 2008-41.

13 **§ 25625. Parading by, or traveling to meeting of, duly authorized military or civil**
14 **organization**

15 25625. Section 25400 does not apply to, or affect, the carrying of unloaded
16 pistols, revolvers, or other firearms capable of being concealed upon the person by
17 duly authorized military or civil organizations while parading, or the members
18 thereof when going to and from the places of meeting of their respective
19 organizations.

20 **Comment.** Section 25625 continues former Section 12027(d) without substantive change.

21 For an exemption relating to a member of the military on duty or an organization authorized by
22 law to purchase or receive weapons, see Section 25620.

23 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
24 “revolver”).

25 **§ 25630. Guard or messenger of common carrier, bank, or financial institution, when**
26 **involved in shipping, transporting, or delivering money or other thing of value**

27 25630. Section 25400 does not apply to, or affect, any guard or messenger of
28 any common carrier, bank, or other financial institution, while actually employed
29 in and about the shipment, transportation, or delivery of any money, treasure,
30 bullion, bonds, or other thing of value within this state.

31 **Comment.** Section 25630 continues former Section 12027(e) without substantive change.

32 For another exemption relating to common carriers, see Section 25645 (transportation of
33 unloaded firearms by person operating licensed common carrier).

34 **§ 25635. Member of club or organization for purpose of practicing at established target**
35 **ranges**

36 25635. Section 25400 does not apply to, or affect, members of any club or
37 organization organized for the purpose of practicing shooting at targets upon
38 established target ranges, whether public or private, while the members are using
39 pistols, revolvers, or other firearms capable of being concealed upon the person
40 upon the target ranges, or transporting these firearms unloaded when going to and
41 from the ranges.

42 **Comment.** Section 25635 continues former Section 12027(f) without substantive change.

1 For another exemption relating to practicing at a target range, see Section 25540 (target range).
2 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
3 “revolver”).

4 **§ 25640. Licensed hunters or fishermen**

5 25640. Section 25400 does not apply to, or affect, licensed hunters or fishermen
6 carrying pistols, revolvers, or other firearms capable of being concealed upon the
7 person while engaged in hunting or fishing, or transporting those firearms
8 unloaded when going to or returning from the hunting or fishing expedition.

9 **Comment.** Section 25640 continues former Section 12027(g) without substantive change.

10 For another exemption relating to hunting, see Section 25520 (recognized sporting event or
11 safety or hunter safety class).

12 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
13 “revolver”).

14 **§ 25645. Transportation of unloaded firearms by person operating licensed common carrier**

15 25645. Section 25400 does not apply to, or affect, the transportation of unloaded
16 firearms by a person operating a licensed common carrier or an authorized agent
17 or employee thereof when the firearms are transported in conformance with
18 applicable federal law.

19 **Comment.** Section 25645 continues former Section 12027(h) without substantive change.

20 For another exemption relating to common carriers, see Section 25630 (guard or messenger of
21 common carrier, bank, or financial institution, when involved in shipping, transporting, or
22 delivering money or other thing of value).

23 See Section 16520 (“firearm”).

24 **§ 25650. Honorably retired federal officer or agent**

25 25650. (a) Upon approval of the sheriff of the county in which the retiree
26 resides, Section 25400 does not apply to, or affect, any honorably retired federal
27 officer or agent of any federal law enforcement agency, including, but not limited
28 to, the Federal Bureau of Investigation, the Secret Service, the United States
29 Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the
30 Federal Bureau of Narcotics, the Drug Enforcement Administration, the United
31 States Border Patrol, and any officer or agent of the Internal Revenue Service who
32 was authorized to carry weapons while on duty, who was assigned to duty within
33 the state for a period of not less than one year, or who retired from active service
34 in the state.

35 (b) A retired federal officer or agent shall provide the sheriff with certification
36 from the agency from which the officer or agent retired certifying that person’s
37 service in the state, the nature of that person’s retirement, and indicating the
38 agency’s concurrence that the retired federal officer or agent should be accorded
39 the privilege of carrying a concealed firearm.

40 (c) Upon that approval, the sheriff shall issue a permit to the retired federal
41 officer or agent indicating that the retiree may carry a concealed firearm in
42 accordance with this section. The permit shall be valid for a period not exceeding

1 five years, shall be carried by the retiree while carrying a concealed firearm, and
2 may be revoked for good cause.

3 (d) The sheriff of the county in which the retired federal officer or agent resides
4 may require recertification prior to a permit renewal, and may suspend the
5 privilege for cause. The sheriff may charge a fee necessary to cover any
6 reasonable expenses incurred by the county.

7 **Comment.** Section 25650 continues former Section 12027(i) without substantive change.

8 For an exemption relating to honorably retired peace officers, see Section 25450 (peace officer
9 exemption).

10 For an honorably retired federal officer or agent carrying a loaded firearm, see Section 26020.

11 See Section 16520 (“firearm”).

12 **§ 25655. Person licensed to carry concealed pistol, revolver, or other firearm capable of**
13 **being concealed upon the person**

14 25655. Section 25400 does not apply to, or affect, the carrying of a pistol,
15 revolver, or other firearm capable of being concealed upon the person by a person
16 who is authorized to carry that weapon in a concealed manner pursuant to [Article
17 3 (commencing with Section 12050)].

18 **Comment.** Section 25655 continues former Section 12027(j) without substantive change.

19 For an exemption relating to transportation of a firearm to a place designated by a person who
20 is authorized to issue licenses to carry firearms, see Section 25545.

21 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
22 “revolver”).

23 Article 5. Concealed Carrying of Firearm as a Nuisance

24 **§ 25700. Unlawful carrying of handgun as nuisance**

25 25700. (a) The unlawful carrying of any handgun in violation of Section 25400
26 is a nuisance and is subject to Sections 18000 and 18005.

27 (b) This section does not apply to any of the following:

28 (1) Any firearm in the possession of the Department of Fish and Game.

29 (2) Any firearm that was used in the violation of any provision of the Fish and
30 Game Code or any regulation adopted pursuant thereto.

31 (3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public
32 Resources Code.

33 **Comment.** With respect to unlawful carrying of a handgun, subdivision (a) of Section 25700
34 continues former Section 12028(a) without substantive change.

35 With respect to unlawful carrying of a handgun, subdivision (b) continues former Section
36 12028(e) without substantive change.

37 See Sections 16520 (“firearm”), 16640 (“handgun”).

CHAPTER 3. CARRYING A LOADED FIREARM

1 Article 1. Armed Criminal Action

2 **§ 25800. Armed criminal action**

3 25800. (a) Every person who carries a loaded firearm with the intent to commit
4 a felony is guilty of armed criminal action.

5 (b) Armed criminal action is punishable by imprisonment in a county jail not
6 exceeding one year, or in the state prison.

7 **Comment.** Section 25800 continues former Section 12023 without substantive change.

8 The definition of “loaded” for armed criminal action differs from the definition of “loaded” for
9 the crime of carrying a loaded firearm in public. See Section 16840 (“loaded” and “loaded
10 firearm”).

11 See also Section 16520 (“firearm”).

12 Article 2. Crime of Carrying a Loaded Firearm in Public

13 **§ 25850. Crime of carrying loaded firearm in public**

14 25850. (a) A person is guilty of carrying a loaded firearm when the person
15 carries a loaded firearm on the person or in a vehicle while in any public place or
16 on any public street in an incorporated city or in any public place or on any public
17 street in a prohibited area of unincorporated territory.

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

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

26 (1) Where the person previously has been convicted of any felony, or of any
27 crime made punishable by [this chapter], as a felony.

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

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

34 (4) Where the person is not in lawful possession of the firearm, or is within a
35 class of persons prohibited from possessing or acquiring a firearm pursuant to
36 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare
37 and Institutions Code, as a felony.

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

5 (6) Where the person is not listed with the Department of Justice pursuant to
6 Section 11106 as the registered owner of the pistol, revolver, or other firearm
7 capable of being concealed upon the person, by imprisonment in the state prison,
8 or by imprisonment in a county jail not to exceed one year, or by a fine not to
9 exceed one thousand dollars (\$1,000), or both that fine and imprisonment.

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

14 (d)(1) Every person convicted under this section who has previously been
15 convicted of an offense enumerated in [Section 12001.6], or of any crime made
16 punishable under [this chapter], shall serve a term of at least three months in a
17 county jail, or, if granted probation or if the execution or imposition of sentence is
18 suspended, it shall be a condition thereof that the person be imprisoned for a
19 period of at least three months.

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

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

33 (f) Nothing in this section, or in Articles 3 (commencing with Section 25900) or
34 4 (commencing with Section 26000), shall preclude prosecution under [Sections
35 12021 and 12021.1 of this code], Section 8100 or 8103 of the Welfare and
36 Institutions Code, or any other law with a greater penalty than this section.

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

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

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

1 (h) A peace officer may arrest a person for a violation of paragraph (6) of
2 subdivision (c), if the peace officer has probable cause to believe that the person is
3 carrying a loaded pistol, revolver, or other firearm capable of being concealed
4 upon the person in violation of this section and that person is not listed with the
5 Department of Justice pursuant to paragraph (1) of subdivision (c) of Section
6 11106 as the registered owner of that pistol, revolver, or other firearm capable of
7 being concealed upon the person.

8 **Comment.** Subdivision (a) of Section 25850 continues former Section 12031(a)(1) without
9 substantive change.

10 Subdivision (b) continues former Section 12031(e) without substantive change.

11 Subdivision (c) continues former Section 12031(a)(2) without substantive change.

12 Subdivision (d) continues former Section 12031(a)(6) without substantive change.

13 Subdivision (e) continues former Section 12031(a)(7) without substantive change.

14 Subdivision (f) continues former Section 12031(a)(4) without substantive change.

15 Subdivision (g) continues former Section 12031(a)(5)(A) without substantive change.

16 Subdivision (h) continues former Section 12031(a)(5)(B) without substantive change.

17 For a provision that required preparation of reports on the race, age, gender, and ethnicity of
18 persons charged with violating the predecessor of this section, see former Section 12031(m)
19 (1999 Cal. Stat. ch. 571, § 3). That provision is not continued, because by its terms it ceased to be
20 operative on January 1, 2005.

21 The definition of “loaded” for the crime of carrying a loaded firearm in public differs from the
22 definition of “loaded” for armed criminal action. See Section 16840 (“loaded” and “loaded
23 firearm”).

24 See also Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the
25 person,” “pistol,” and “revolver”), 16750 (“lawful possession of the firearm”), 17030 (“prohibited
26 area”).

27 **Staff Notes.**

28 (1) Subdivision (m) of existing Section 12025 provides:

29 (m)(1) The district attorney of each county shall submit annually a report on or before June
30 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any
31 person charged with a felony or a misdemeanor under this section and any other offense
32 charged in the same complaint, indictment, or information.

33 (2) The Attorney General shall submit annually, a report on or before December 31, to the
34 Legislature compiling all of the reports submitted pursuant to paragraph (1).

35 (3) *This subdivision shall remain operative only until January 1, 2005.*

36 (Emphasis added.) Because this provision only remained operative until January 1, 2005, the staff
37 did not continue it in proposed Section 25850, but did refer to it in the Comment. We solicit
38 comment on whether that treatment of subdivision (m) is appropriate.

39 (2) Existing Section 12031 is a very long section (over six pages in the attachment to
40 Memorandum 2007-59). Proposed Section 25850 would continue all of Section 12031(a), except
41 the definition of “lawful possession of the firearm,” which would be placed with other definitions
42 (see proposed Section 16750). Proposed Section 25850 would also continue Section 12031(e),
43 which concerns a police officer’s authority to determine whether a firearm is “loaded” in
44 violation of the section.

45 The remainder of Section 12031 consists of:

- 46 • Exemptions relating to peace officers and retired peace officers (Section 12031(b)(1)-(3)). This
47 material would be placed in “Article 3. Peace Office Exemption to the Crime of Carrying a
48 Loaded Firearm in Public.”

- 1 • Various other exemptions (Section 12031(b)(4)-(8), (c), (d), (h)-(l)). This material would be
- 2 placed in “Article 4. Other Exemptions to the Crime of Carrying a Loaded Firearm in Public.”
- 3 • A definition of “prohibited area” (Section 12031(f)) and a provision on when a firearm is
- 4 deemed loaded (Section 12031(g)), which would be placed with other definitions (see
- 5 proposed Sections 16840, 17030).
- 6 • Section 12031(m), which is inoperative as discussed above and would not be continued.

7 The staff solicits comment on this drafting approach.

8 (3) Existing Section 12031(a)(2)(C) specifies the punishment for a violation of the section
9 “[w]here the person is an active participant in a criminal street gang, as defined in subdivision (a)
10 of Section 186.22” The definition of a “criminal street gang” is located in subdivision (f) of
11 Section 186.22, not subdivision (a). But subdivision (a) provides guidance on what level of
12 involvement in a criminal street gang is punishable:

13 (a) Any person who actively participates in any criminal street gang with knowledge that
14 its members engage in or have engaged in a pattern of criminal gang activity, and who
15 willfully promotes, furthers, or assists in any felonious criminal conduct by members of that
16 gang, shall be punished by imprisonment in a county jail for a period not to exceed one year,
17 or by imprisonment in the state prison for 16 months, or two or three years.

18 The staff has assumed that the Legislature intended to cross-refer to subdivision (a), not
19 subdivision (f). Proposed Section 25850 would thus continue the existing cross-reference.

20 (4) Existing Section 12031(a)(2)(D) refers to a person who “is not in lawful possession of the
21 firearm, *as defined in this section.*” (Emphasis added.) Unlike existing Section 12031(a)(2)(D),
22 proposed Section 25850(c)(4) would not cross-refer to the provision defining “lawful possession
23 of the firearm.”

24 Instead, the Comment would cross-refer to the definition of “lawful possession of the firearm.”
25 The Comment would also state that “[s]ubdivision (c) continues former Section 12031(a)(2)
26 without substantive change.” The definition of “lawful possession of the firearm” is drafted to
27 encompass the provisions that would continue existing Section 12031, including proposed
28 Section 25850.

29 We chose this approach because it would further the Legislature’s directive to “[a]void
30 unnecessary use of cross-references” while “[n]either expand[ing] nor contracting the scope of
31 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
32 weight to the Commission’s Comments, we think this would be sufficient to preserve the
33 substance of Section 12031(a)(2)(D). See *2006-2007 Annual Report*, 36 Cal. L. Revision
34 Comm’n Reports 1, 18-24 (2006).

35 Article 3. Peace Office Exemption to the Crime 36 of Carrying a Loaded Firearm in Public

37 **Staff Note.** Existing law contains extensive provisions relating to identification certificates
38 for retired peace officers and endorsements on those certificates authorizing officers to (1) carry a
39 concealed firearm, (2) carry a loaded firearm, or (3) carry a concealed and loaded firearm. The
40 current and proposed future locations of those provisions are as follows:

- 41 • Existing Section 12027(a) (peace officer exemption to crime of carrying concealed
42 firearm). This material would be recodified as proposed Sections 25450-25475.
- 43 • Existing Section 12031(b)(1)-(3) (peace officer exemption to crime of carrying loaded
44 firearm in public). This material would be recodified as proposed Sections 25900-25925.
- 45 • Existing Section 12027.1 (retired peace officer carrying concealed and loaded firearm).
46 This material would be recodified as proposed Sections 26300-26325.

1 There is much repetition among these three separate sets of statutory material, albeit in
2 different contexts. The material could perhaps be reorganized more concisely, without any change
3 in meaning.

4 To avoid any risk of a substantive change, the staff advises against attempting such
5 reorganization in the context of this nonsubstantive study. Unless the Commission otherwise
6 directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible
7 Future Legislative Attention.” See Memorandum 2008-41.

8 **§ 25900. Peace officer exemption**

9 25900. As provided in this article, Section 25850 does not apply to any of the
10 following:

11 (a) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of
12 Section 830.33, whether active or honorably retired.

13 (b) Any other duly appointed peace officer.

14 (c) Any honorably retired peace officer listed in subdivision (c) of Section
15 830.5.

16 (d) Any other honorably retired peace officer who during the course and scope
17 of employment as a peace officer was authorized to, and did, carry a firearm.

18 (e) Any full-time paid peace officer of another state or the federal government
19 who is carrying out official duties while in California.

20 (f) Any person summoned by any of these officers to assist in making arrests or
21 preserving the peace while the person is actually engaged in assisting that officer.

22 **Comment.** Section 25900 continues the first sentence of the first paragraph of former Section
23 12031(b)(1) without substantive change.

24 For an exemption relating to honorably retired federal officers and agents, see Section 16020.

25 For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-
26 25475. For guidance on a retired peace officer carrying a concealed and loaded firearm, see
27 Sections 26300-26325.

28 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

29 **§ 25905. Identification certificate for honorably retired peace officer**

30 25905. (a) Any peace officer described in Section 25900 who has been
31 honorably retired shall be issued an identification certificate by the law
32 enforcement agency from which the officer has retired.

33 (b) The issuing agency may charge a fee necessary to cover any reasonable
34 expenses incurred by the agency in issuing certificates pursuant to this article.

35 (c) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision
36 (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to
37 January 1, 1981, shall have an endorsement on the identification certificate stating
38 that the issuing agency approves the officer’s carrying of a loaded firearm.

39 (d) An honorably retired peace officer listed in Section 830.1 or 830.2,
40 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired
41 prior to January 1, 1981, shall not be required to obtain an endorsement from the
42 issuing agency to carry a loaded firearm.

43 **Comment.** Subdivision (a) of Section 25905 continues the second sentence of the first
44 paragraph of former Section 12031(b)(1) without substantive change.

1 Subdivision (b) continues the third sentence of the first paragraph of former Section
2 12031(b)(1) without substantive change.

3 Subdivision (c) continues the second paragraph of former Section 12031(b)(1) without
4 substantive change.

5 Subdivision (d) continues the second sentence of former Section 12031(b)(2) without
6 substantive change.

7 For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-
8 25475. For guidance on a retired peace officer carrying a concealed and loaded firearm, see
9 Sections 26300-26325.

10 See Sections 16520 (“firearm”), 16690 (“honorably retired”), 16840 (“loaded” and “loaded
11 firearm”).

12 **☞ Staff Note.** The third sentence of the first paragraph of existing Section 12031(b)(1) says that
13 “The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the
14 agency in issuing certificates pursuant to this paragraph *and paragraph (3)*. (Emphasis added.)
15 The cross-reference to paragraph (3) appears to be incorrect. That paragraph does not concern
16 issuance of certificates. Rather, it provides:

17 (3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and
18 authorized to carry loaded firearms by this subdivision shall meet the training requirements of
19 Section 832 and shall qualify with the firearm at least annually. The individual retired peace
20 officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The
21 Department of Justice shall provide subsequent arrest notification pursuant to Section
22 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5
23 to the agency from which the officer has retired.

24 The staff suspects that the Legislature intended to refer to paragraph (2), which relates to renewal,
25 denial, and revocation of the privilege to carry a loaded firearm, instead of paragraph (3).

26 The staff has corrected the cross-reference in drafting proposed Section 25905. Instead of
27 referring to “expenses incurred by the agency in issuing certificates pursuant to *this paragraph*
28 *and paragraph (3)*,” proposed Section 25905 would refer to “expenses incurred by the agency in
29 issuing certificates pursuant to *this article*.”

30 This approach seems more reasonable than perpetuating an obviously incorrect reference.
31 Although this is a strictly nonsubstantive study, some degree of commonsense is appropriate in
32 interpreting existing law. We would exercise such commonsense here and note the situation in the
33 preliminary part of the Commission’s report.

34 We encourage comment on this point.

35 § 25910. Format of endorsement on identification certificate

36 25910. (a) Except as provided in subdivision (b), no endorsement or renewal
37 endorsement issued pursuant to Section 25915 shall be effective unless it is in the
38 format set forth in subdivision (c) of Section 25460.

39 (b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision
40 (c) of Section 830.5, who is retired between January 2, 1981, and on or before
41 December 31, 1988, and who is authorized to carry a loaded firearm pursuant to
42 this article, shall not be required to have an endorsement in the format set forth in
43 subdivision (c) of Section 25460 until the time of the issuance, on or after January
44 1, 1989, of a renewal endorsement pursuant to 25915.

45 **Comment.** Section 25910 continues the third paragraph of former Section 12031(b)(1) without
46 substantive change.

47 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

1 **☞ Staff Note.** The substance of proposed Section 25910(b) may be obsolete. The staff solicits
2 comment on this point. Unless the Commission otherwise directs, we will add this issue to the
3 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See
4 Memorandum 2008-41.

5 **§ 25915. Renewal of privilege to carry loaded firearm**

6 25915. Every five years, a retired peace officer, except an officer listed in
7 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of
8 Section 830.5 who retired prior to January 1, 1981, shall petition the issuing
9 agency for renewal of the privilege to carry a loaded firearm.

10 **Comment.** Section 25915 continues the first sentence of former Section 12031(b)(2) without
11 substantive change.

12 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

13 **§ 25920. Denial or revocation of privilege to carry loaded firearm**

14 25920. (a) The agency from which a peace officer is honorably retired may,
15 upon initial retirement of the peace officer, or at any time subsequent thereto, deny
16 or revoke for good cause the retired officer’s privilege to carry a loaded firearm.

17 (b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of
18 Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January
19 1, 1981, shall have the privilege to carry a loaded firearm denied or revoked by
20 having the agency from which the officer retired stamp on the officer’s
21 identification certificate “No CCW privilege.”

22 **Comment.** Section 25920 continues the third sentence of former Section 12031(b)(2) without
23 substantive change.

24 See Sections 16360 (“CCW”), 16520 (“firearm”), 16690 (“honorably retired”), 16840
25 (“loaded” and “loaded firearm”).

26 **§ 25925. Maintaining privilege to carry loaded firearm**

27 25925. (a) An honorably retired peace officer who is listed in subdivision (c) of
28 Section 830.5 and authorized to carry a loaded firearm by this article shall meet
29 the training requirements of Section 832 and shall qualify with the firearm at least
30 annually.

31 (b) The individual retired peace officer shall be responsible for eligibility to
32 carry a loaded firearm.

33 (c) The Department of Justice shall provide subsequent arrest notification
34 pursuant to Section 11105.2 regarding honorably retired peace officers listed in
35 subdivision (c) of Section 830.5 to the agency from which the officer has retired.

36 **Comment.** Section 25925 continues former Section 12031(b)(3) without substantive change.

37 See Sections 16520 (“firearm”), 16690 (“honorably retired”), 16840 (“loaded” and “loaded
38 firearm”).

1 Article 4. Other Exemptions to the Crime of
2 Carrying a Loaded Firearm in Public

3 **§ 26000. Members of military on duty**

4 26000. Section 25850 does not apply to members of the military forces of this
5 state or of the United States engaged in the performance of their duties.

6 **Comment.** Section 26000 continues former Section 12031(b)(4) without substantive change.

7 **§ 26005. Target range or shooting club**

8 26005. Section 25850 does not apply to either of the following:

9 (a) Persons who are using target ranges for the purpose of practice shooting with
10 a firearm.

11 (b) Members of shooting clubs while hunting on the premises of those clubs.

12 **Comment.** Section 26005 continues former Section 12031(b)(5) without substantive change.
13 See Section 16520 (“firearm”).

14 **§ 26010. Person licensed to carry concealed pistol, revolver, or other firearm capable of
15 being concealed upon the person**

16 26010. Section 25850 does not apply to the carrying of any pistol, revolver, or
17 other firearm capable of being concealed upon the person by any person who is
18 authorized to carry that weapon pursuant to Chapter 4 (commencing with Section
19 26150) of Division 5.

20 **Comment.** Section 26010 continues former Section 12031(b)(6) without substantive change.

21 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
22 “revolver.”)

23 **§ 26015. Armored vehicle guard**

24 26015. Section 25850 does not apply to any armored vehicle guard, as defined
25 in Section 7521 of the Business and Professions Code, if either of the following
26 conditions is satisfied:

27 (a) The guard was hired prior to January 1, 1977, and is acting within the course
28 and scope of employment.

29 (b) The guard was hired on or after January 1, 1977, has received a firearms
30 qualification card from the Department of Consumer Affairs, and is acting within
31 the course and scope of employment.

32 **Comment.** Section 26015 continues former Section 12031(b)(7) without substantive change.

33 **§ 26020. Honorably retired federal officer or agent**

34 26020. (a) Upon approval of the sheriff of the county in which the retiree
35 resides, Section 25850 does not apply to any honorably retired federal officer or
36 agent of any federal law enforcement agency, including, but not limited to, the
37 Federal Bureau of Investigation, the Secret Service, the United States Customs
38 Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal

1 Bureau of Narcotics, the Drug Enforcement Administration, the United States
2 Border Patrol, and any officer or agent of the Internal Revenue Service who was
3 authorized to carry weapons while on duty, who was assigned to duty within the
4 state for a period of not less than one year, or who retired from active service in
5 the state.

6 (b) A retired federal officer or agent shall provide the sheriff with certification
7 from the agency from which the officer or agent retired certifying that person's
8 service in the state, the nature of that person's retirement, and indicating the
9 agency's concurrence that the retired federal officer or agent should be accorded
10 the privilege of carrying a loaded firearm.

11 (c) Upon approval, the sheriff shall issue a permit to the retired federal officer or
12 agent indicating that the retiree may carry a loaded firearm in accordance with this
13 section. The permit shall be valid for a period not exceeding five years, shall be
14 carried by the retiree while carrying a loaded firearm, and may be revoked for
15 good cause.

16 (d) The sheriff of the county in which the retired federal officer or agent resides
17 may require recertification prior to a permit renewal, and may suspend the
18 privilege for cause. The sheriff may charge a fee necessary to cover any
19 reasonable expenses incurred by the county.

20 **Comment.** Section 26020 continues former Section 12031(b)(8) without substantive change.

21 For an exemption relating to honorably retired peace officers, see Section 25900 (peace officer
22 exemption).

23 For an honorably retired federal officer or agent carrying a concealed firearm, see Section
24 25650.

25 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

26 **§ 26025. Patrol special police officers, animal control officers, zookeepers, humane officers,**
27 **and harbor police officers**

28 26025. Section 25850 does not apply to any of the following who have
29 completed a regular course in firearms training approved by the Commission on
30 Peace Officer Standards and Training:

31 (a) Patrol special police officers appointed by the police commission of any city,
32 county, or city and county under the express terms of its charter who also, under
33 the express terms of the charter, satisfy all of the following requirements:

34 (1) They are subject to suspension or dismissal after a hearing on charges duly
35 filed with the commission after a fair and impartial trial.

36 (2) They are not less than 18 years of age or more than 40 years of age.

37 (3) They possess physical qualifications prescribed by the commission.

38 (4) They are designated by the police commission as the owners of a certain beat
39 or territory as may be fixed from time to time by the police commission.

40 (b) Animal control officers or zookeepers, regularly compensated in that
41 capacity by a governmental agency, when carrying weapons while acting in the
42 course and scope of their employment and when designated by a local ordinance

1 or, if the governmental agency is not authorized to act by ordinance, by a
2 resolution, either individually or by class, to carry the weapons.

3 (c) Persons who are authorized to carry the weapons pursuant to Section 14502
4 of the Corporations Code, while actually engaged in the performance of their
5 duties pursuant to that section.

6 (c) Harbor police officers designated pursuant to Section 663.5 of the Harbors
7 and Navigation Code.

8 **Comment.** Section 26025 continues former Section 12031(c) without substantive change.

9 **§ 26030. Guards, messengers, private investigators, private patrol operators, and alarm**
10 **company operators**

11 26030. (a) Section 25850 does not apply to any of the following who have been
12 issued a certificate pursuant to subdivision (d):

13 (1) Guards or messengers of common carriers, banks, and other financial
14 institutions, while actually employed in and about the shipment, transportation, or
15 delivery of any money, treasure, bullion, bonds, or other thing of value within this
16 state.

17 (2) Guards of contract carriers operating armored vehicles pursuant to California
18 Highway Patrol and Public Utilities Commission authority, if they were hired prior
19 to January 1, 1977.

20 (3) Guards of contract carriers operating armored vehicles pursuant to California
21 Highway Patrol and Public Utilities Commission authority, if they were hired on
22 or after January 1, 1977, and they have completed a course in the carrying and use
23 of firearms that meets the standards prescribed by the Department of Consumer
24 Affairs.

25 (4) Private investigators licensed pursuant to Chapter 11.3 (commencing with
26 Section 7512) of Division 3 of the Business and Professions Code, while acting
27 within the course and scope of their employment.

28 (5) Uniformed employees of private investigators licensed pursuant to Chapter
29 11.3 (commencing with Section 7512) of Division 3 of the Business and
30 Professions Code, while acting within the course and scope of their employment.

31 (6) Private patrol operators licensed pursuant to Chapter 11.5 (commencing with
32 Section 7580) of Division 3 of the Business and Professions Code, while acting
33 within the course and scope of their employment.

34 (7) Uniformed employees of private patrol operators licensed pursuant to
35 Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and
36 Professions Code, while acting within the course and scope of their employment.

37 (8) Alarm company operators licensed pursuant to Chapter 11.6 (commencing
38 with Section 7590) of Division 3 of the Business and Professions Code, while
39 acting within the course and scope of their employment.

40 (9) Uniformed security guards or night watch persons employed by any public
41 agency, while acting within the scope and course of their employment.

1 (10) Uniformed security guards, regularly employed and compensated in that
2 capacity by persons engaged in any lawful business, and uniformed alarm agents
3 employed by an alarm company operator, while actually engaged in protecting and
4 preserving the property of their employers, or on duty or en route to or from their
5 residences or their places of employment, and security guards and alarm agents en
6 route to or from their residences or employer-required range training.

7 (b) Nothing in paragraph (10) of subdivision (a) shall be construed to prohibit
8 cities and counties from enacting ordinances requiring alarm agents to register
9 their names.

10 (c) A certificate under this section shall not be required of any person who is a
11 peace officer, who has completed all training required by law for the exercise of
12 the person's power as a peace officer, and who is employed while not on duty as a
13 peace officer.

14 (d) The Department of Consumer Affairs may issue a certificate to any person
15 referred to in this section, upon notification by the school where the course was
16 completed, that the person has successfully completed a course in the carrying and
17 use of firearms and a course of training in the exercise of the powers of arrest,
18 which meet the standards prescribed by the department pursuant to Section 7583.5
19 of the Business and Professions Code.

20 **Comment.** The introductory clause of subdivision (a) of Section 26030 continues the first
21 sentence of the introductory paragraph of former Section 12031(d) without substantive change.

22 Subdivision (a)(1) continues former Section 12031(d)(1) without substantive change.

23 Subdivision (a)(2)-(3) continues former Section 12031(d)(2) without substantive change.

24 With respect to licensed private investigators, subdivision (a)(4) continues former Section
25 12031(d)(3) without substantive change.

26 With respect to uniformed employees of licensed private investigators, subdivision (a)(5)
27 continues former Section 12031(d)(6) without substantive change.

28 With respect to licensed private patrol operators, subdivision (a)(6) continues former Section
29 12031(d)(3) without substantive change.

30 With respect to uniformed employees of licensed private patrol operators, subdivision (a)(7)
31 continues former Section 12031(d)(6) without substantive change.

32 With respect to licensed alarm company operators, subdivision (a)(8) continues former Section
33 12031(d)(3) without substantive change.

34 Subdivision (a)(9) continues former Section 12031(d)(4) without substantive change.

35 Subdivision (a)(10) continues the first sentence of former Section 12031(d)(5) without
36 substantive change.

37 Subdivision (b) continues the second sentence of former Section 12031(d)(5) without
38 substantive change.

39 Subdivision (c) continues the second sentence of the introductory paragraph of former Section
40 12031(d) without substantive change.

41 Subdivision (d) continues former Section 12033 without substantive change.

42 See Section 16520 ("firearm").

43 **Staff Note.** Existing Section 12031(d)(3) refers to "[p]rivate investigators and private patrol
44 operators who are licensed pursuant to *Chapter 11.5 (commencing with Section 7512) of ...*
45 *Division 3 of the Business and Professions Code*" (Emphasis added.) Similarly, existing
46 Section 12031(d)(6) refers to "[u]niformed employees of private patrol operators and private
47 investigators licensed pursuant to *Chapter 11.5 (commencing with Section 7512) of Division 3 of*
48 *the Business and Professions Code*" (Emphasis added.)

1 Those cross-references are incorrect. Private investigators are now licensed pursuant to Chapter
2 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code.
3 Private patrol operators are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of
4 Division 3 of the Business and Professions Code.

5 The staff has corrected the cross-references in drafting proposed Section 26030 (see paragraphs
6 (a)(4)-(a)(7)). This approach seems more reasonable than perpetuating obviously incorrect
7 references. Although this is a strictly nonsubstantive study, some degree of commonsense is
8 appropriate in interpreting existing law. We would exercise such commonsense here and note the
9 situation in the preliminary part of the Commission's report.

10 We encourage comment on this point.

11 **§ 26035. Loaded firearm at one's place of business or own private property**

12 26035. Nothing in Section 25850 shall prevent any person engaged in any
13 lawful business, including a nonprofit organization, or any officer, employee, or
14 agent authorized by that person for lawful purposes connected with that business,
15 from having a loaded firearm within the person's place of business, or any person
16 in lawful possession of private property from having a loaded firearm on that
17 property.

18 **Comment.** Section 26035 continues former Section 12031(h) without substantive change.

19 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

20 **§ 26040. Hunting**

21 26040. Nothing in Section 25850 shall prevent any person from carrying a
22 loaded firearm in an area within an incorporated city while engaged in hunting,
23 provided that the hunting at that place and time is not prohibited by the city
24 council.

25 **Comment.** Section 26040 continues former Section 12031(i) without substantive change.

26 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

27 **§ 26045. Reasonable belief of immediate, grave danger to person or property**

28 26045. (a) Nothing in Section 25850 is intended to preclude the carrying of any
29 loaded firearm, under circumstances where it would otherwise be lawful, by a
30 person who reasonably believes that any person or the property of any person is in
31 immediate, grave danger and that the carrying of the weapon is necessary for the
32 preservation of that person or property.

33 (b) A violation of Section 25850 is justifiable when a person who possesses a
34 firearm reasonably believes that person is in grave danger because of
35 circumstances forming the basis of a current restraining order issued by a court
36 against another person who has been found to pose a threat to the life or safety of
37 the person who possesses the firearm. This paragraph may not apply when the
38 circumstances involve a mutual restraining order issued pursuant to Division 10
39 (commencing with Section 6200) of the Family Code absent a factual finding of a
40 specific threat to the person's life or safety. It is not the intent of the Legislature to
41 limit, restrict, or narrow the application of current statutory or judicial authority to
42 apply this or other justifications to a defendant charged with violating [Section

1 12025] or committing another similar offense. Upon trial for violating Section
2 25850, the trier of fact shall determine whether the defendant was acting out of a
3 reasonable belief that the defendant was in grave danger.

4 (c) As used in this section, “immediate” means the brief interval before and after
5 the local law enforcement agency, when reasonably possible, has been notified of
6 the danger and before the arrival of its assistance.

7 **Comment.** Subdivision (a) of Section 26045 continues the first sentence of former Section
8 12031(j)(1) without substantive change.

9 Subdivision (b) continues former Section 12031(j)(2) without substantive change.

10 Subdivision (c) continues the second sentence of former Section 12031(j)(1) without
11 substantive change.

12 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

13 **Staff Notes.**

14 (1) The first sentence of existing Section 12031(j)(1) says: “Nothing in Section 25850 is
15 intended to preclude the carrying of any loaded firearm, under circumstances where it would
16 otherwise be lawful, by a person who reasonably believes that *the person or property of himself*
17 *or herself or of another* is in immediate, grave danger” (Emphasis added.) In drafting statutes,
18 the Law Revision Commission generally tries to avoid using awkward phrases like “his or her,”
19 “he or she,” and “himself or herself.”

20 In drafting proposed Section 26045 the staff has revised the sentence in question to read:
21 “Nothing in Section 25850 is intended to preclude the carrying of any loaded firearm, under
22 circumstances where it would otherwise be lawful, by a person who reasonably believes that *any*
23 *person or the property of any person* is in immediate, grave danger” (Emphasis added.) We do
24 not think this changes the meaning of the sentence.

25 We encourage input on this point.

26 (2) The second sentence of existing Section 12031(j)(1) defines “immediate” for purposes of
27 that subdivision as “the brief interval before and after the local law enforcement agency, when
28 reasonably possible, has been notified of the danger and before the arrival of its assistance.” The
29 term is also used without definition elsewhere.

30 To help ensure that the applicable definition of this commonplace word is not overlooked, the
31 Commission decided to place the definition in close proximity to the substance of Section
32 12031(j). See Memorandum 2008-23, p. 3; Minutes (June 2008), pp. 6-9. Proposed Section 26045
33 would implement that decision. The Commission and other interested persons should assess
34 whether this treatment of the definition of “immediate” is satisfactory.

35 (3) Existing Section 12031(j)(2) provides:

36 A violation of this section is justifiable when a person who possesses a
37 firearm reasonably believes that he or she is in grave danger because of
38 circumstances forming the basis of a current restraining order issued by a court
39 against another person or persons who has or have been found to pose a threat to
40 his or her life or safety. This paragraph may not apply when the circumstances
41 involve a mutual restraining order issued pursuant to Division 10 (commencing
42 with Section 6200) of the Family Code absent a factual finding of a specific
43 threat to the person’s life or safety. It is not the intent of the Legislature to limit,
44 restrict, or narrow the application of current statutory or judicial authority to
45 apply this or other justifications to defendants charged with violating *Section*
46 *12025* or of committing other similar offenses. Upon trial for violating this
47 section, the trier of fact shall determine whether the defendant was acting out of a
48 reasonable belief that he or she was in grave danger.

1 (Emphasis added.) The staff suspects that the italicized cross-reference to Section 12025 is
2 incorrect and should be replaced with a cross-reference to Section 12031.

3 In coming to this conclusion, we noted that existing Section 12025.5 is almost identical to
4 Section 12031(j)(2), but is an exemption to Section 12025 rather than Section 12031. It is easy to
5 imagine that someone used a cut-and-paste function in drafting Section 12031(j)(2) and forgot to
6 replace “Section 12025” with “Section 12031.”

7 We solicit comment on whether proposed Section 26045(b) should refer to the provision that
8 continues the elements of the crime stated in existing Section 12025 (proposed Section 25400) or
9 the provision that continues the elements of the crime stated in existing Section 12031 (proposed
10 Section 25850). Absent input on this point, we will not correct the cross-reference (i.e., proposed
11 Section 26045(b) will refer to proposed Section 25400), but we will add this issue to the
12 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See
13 Memorandum 2008-41.

14 **§ 26050. Making lawful arrest**

15 26050. Nothing in Section 25850 is intended to preclude the carrying of a loaded
16 firearm by any person while engaged in the act of making or attempting to make a
17 lawful arrest.

18 **Comment.** Section 26050 continues former Section 12031(k) without substantive change.
19 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

20 **§ 26055. Place of residence, including campsite**

21 26055. Nothing in Section 25850 shall prevent any person from having a loaded
22 weapon, if it is otherwise lawful, at the person’s place of residence, including any
23 temporary residence or campsite.

24 **Comment.** Section 26055 continues former Section 12031(l) without substantive change.
25 See Section 16840 (“loaded” and “loaded firearm”).

26 **§ 26060. Rocket or other emergency or distress signaling device**

27 26060. Nothing in Section 25850 shall prevent any person from storing aboard
28 any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile
29 launcher, or similar device designed primarily for emergency or distress signaling
30 purposes, or from possessing that type of a device while in a permitted hunting
31 area or traveling to or from a permitted hunting area and carrying a valid
32 California permit or license to hunt.

33 **Comment.** Section 26060 continues former Section 12031.1 without substantive change.

34 **Article 5. Loaded Firearm in Motor Vehicle**

35 **§ 26100. Loaded firearm in motor vehicle**

36 26100. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of
37 any motor vehicle, whether or not the owner of the vehicle is occupying the
38 vehicle, knowingly to permit any other person to carry into or bring into the
39 vehicle a firearm in violation of Section 25850 of this code or Section 2006 of the
40 Fish and Game Code.

1 (b) Any driver or owner of any vehicle, whether or not the owner of the vehicle
2 is occupying the vehicle, who knowingly permits any other person to discharge
3 any firearm from the vehicle is punishable by imprisonment in the county jail for
4 not more than one year or in state prison for 16 months or two or three years.

5 (c) Any person who willfully and maliciously discharges a firearm from a motor
6 vehicle at another person other than an occupant of a motor vehicle is guilty of a
7 felony punishable by imprisonment in state prison for three, five, or seven years.

8 (d) Except as provided in Section 3002 of the Fish and Game Code, any person
9 who willfully and maliciously discharges a firearm from a motor vehicle is guilty
10 of a public offense punishable by imprisonment in the county jail for not more
11 than one year or in the state prison.

12 **Comment.** Section 26100 continues former Section 12034 without substantive change.
13 See Section 16520 (“firearm”).

14 CHAPTER 4. LICENSE TO CARRY PISTOL, REVOLVER, OR OTHER FIREARM
15 CAPABLE OF BEING CONCEALED UPON PERSON

16 § 26150. Issuance of license by sheriff

17 26150. (a) When a person applies for a license to carry a pistol, revolver, or
18 other firearm capable of being concealed upon the person, the sheriff of a county
19 may issue a license to that person upon proof of all of the following:

20 (1) The applicant is of good moral character.

21 (2) Good cause exists for issuance of the license.

22 (3) The applicant is a resident of the county or a city within the county, or the
23 applicant’s principal place of employment or business is in the county or a city
24 within the county and the applicant spends a substantial period of time in that
25 place of employment or business.

26 (4) The applicant has completed a course of training as described in Section
27 26165.

28 (b) The sheriff may issue a license under subdivision (a) in either of the
29 following formats:

30 (1) A license to carry concealed a pistol, revolver, or other firearm capable of
31 being concealed upon the person.

32 (2) Where the population of the county is less than 200,000 persons according to
33 the most recent federal decennial census, a license to carry loaded and exposed in
34 that county a pistol, revolver, or other firearm capable of being concealed upon the
35 person.

36 **Comment.** Section 26150 continues former Section 12050(a)(1)(A) & (D) without substantive
37 change.

38 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
39 “pistol,” and “revolver”), 17020 (“principal place of employment or business”).

1 § 26155. Issuance of license by head of municipal police department

2 26155. (a) When a person applies for a license to carry a pistol, revolver, or
3 other firearm capable of being concealed upon the person, the chief or other head
4 of a municipal police department of any city or city and county may issue a license
5 to that person upon proof of all of the following:

6 (1) The applicant is of good moral character.

7 (2) Good cause exists for issuance of the license.

8 (3) The applicant is a resident of that city.

9 (4) The applicant has completed a course of training as described in Section
10 26165.

11 (b) The chief or other head of a municipal police department may issue a license
12 under subdivision (a) in either of the following formats:

13 (1) A license to carry concealed a pistol, revolver, or other firearm capable of
14 being concealed upon the person.

15 (2) Where the population of the county in which the city is located is less than
16 200,000 persons according to the most recent federal decennial census, a license to
17 carry loaded and exposed in that county a pistol, revolver, or other firearm capable
18 of being concealed upon the person.

19 (c) Nothing in this chapter shall preclude the chief or other head of a municipal
20 police department of any city from entering an agreement with the sheriff of the
21 county in which the city is located for the sheriff to process all applications for
22 licenses, renewals of licenses, and amendments to licenses, pursuant to this
23 chapter.

24 **Comment.** Subdivisions (a) and (b) of Section 26155 continue former Section 12050(a)(1)(B)
25 without substantive change.

26 Subdivision (c) continues former Section 12050(g) without substantive change.

27 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
28 “pistol,” and “revolver”).

29 § 26160. Written policy

30 26160. Each licensing authority shall publish and make available a written
31 policy summarizing the provisions of Section 26150 and subdivisions (a) and (b)
32 of Section 26155.

33 **Comment.** Section 26160 continues former Section 12050.2 without substantive change.

34 **Staff Note.** Existing Section 12050.2 provides:

35 12050.2. *Within three months of the effective date of the act adding this section, each*
36 *licensing authority shall publish and make available a written policy summarizing the*
37 *provisions of subparagraphs (A) and (B) of paragraph (1) of subdivision (a) of Section 12050.*

38 (Emphasis added.) The compliance deadline indicated in italics passed long ago. The effective
39 date of the act adding Section 12050.2 to the Penal Code was January 1, 1999, and the deadline
40 was three months later (i.e., April 1, 1999). See 1998 Cal. Stat. ch. 910, § 2; see also Cal. Const.
41 art. IV, § 8(c)(1); Gov’t Code § 9600(a).

42 Because the compliance deadline has passed and rewording it to reflect recodification of
43 existing Section 12050.2 would be awkward, the staff has not continued it in proposed Section
44 26160. We solicit comment on whether that would create any problems.

1 **§ 26165. Training course**

2 26165. (a) For new license applicants, the course of training for issuance of a
3 license under Section 26150 or 26155 may be any course acceptable to the
4 licensing authority, shall not exceed 16 hours, and shall include instruction on at
5 least firearm safety and the law regarding the permissible use of a firearm.

6 (b) Notwithstanding subdivision (a), the licensing authority may require a
7 community college course certified by the Commission on Peace Officer
8 Standards and Training, up to a maximum of 24 hours, but only if required
9 uniformly of all license applicants without exception.

10 (c) For license renewal applicants, the course of training may be any course
11 acceptable to the licensing authority, shall be no less than four hours, and shall
12 include instruction on at least firearm safety and the law regarding the permissible
13 use of a firearm. No course of training shall be required for any person certified by
14 the licensing authority as a trainer for purposes of this section, in order for that
15 person to renew a license issued pursuant to this article.

16 **Comment.** Section 26165 continues former Section 12050(a)(1)(E) without substantive
17 change.

18 See Section 16520 (“firearm”).

19 **§ 26170. Issuance of license to person deputized or appointed as peace officer**

20 26170. (a) Upon proof of all of the following, the sheriff of a county, or the
21 chief or other head of a municipal police department of any city or city and
22 county, may issue to an applicant a license to carry concealed a pistol, revolver, or
23 other firearm capable of being concealed upon the person:

24 (1) The applicant is of good moral character.

25 (2) Good cause exists for issuance of the license.

26 (3) The applicant has been deputized or appointed as a peace officer pursuant to
27 subdivision (a) or (b) of Section 830.6 by that sheriff or that chief of police or
28 other head of a municipal police department.

29 (b) Direct or indirect fees for the issuance of a license pursuant to this section
30 may be waived.

31 (c) The fact that an applicant for a license to carry a pistol, revolver, or other
32 firearm capable of being concealed upon the person has been deputized or
33 appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6
34 shall be considered only for the purpose of issuing a license pursuant to this
35 section, and shall not be considered for the purpose of issuing a license pursuant to
36 Section 26150 or 26155.

37 **Comment.** Section 26170 continues former Section 12050(a)(1)(C) without substantive
38 change.

39 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
40 “pistol,” and “revolver”).

1 **§ 26175. License application**

2 26175. (a)(1) Applications for licenses, applications for amendments to licenses,
3 amendments to licenses, and licenses under this article shall be uniform
4 throughout the state, upon forms to be prescribed by the Attorney General.

5 (2) The Attorney General shall convene a committee composed of one
6 representative of the California State Sheriffs' Association, one representative of
7 the California Police Chiefs' Association, and one representative of the
8 Department of Justice to review, and as deemed appropriate, revise the standard
9 application form for licenses. The committee shall meet for this purpose if two of
10 the committee's members deem that necessary.

11 (b) The application shall include a section summarizing the statutory provisions
12 of state law that result in the automatic denial of a license.

13 (c) The standard application form for licenses described in subdivision (a) shall
14 require information from the applicant including, but not limited to, the name,
15 occupation, residence and business address of the applicant, the applicant's age,
16 height, weight, color of eyes and hair, and reason for desiring a license to carry the
17 weapon.

18 (d) Applications for licenses shall be filed in writing, and signed by the
19 applicant.

20 (e) Applications for amendments to licenses shall be filed in writing and signed
21 by the applicant, and shall state what type of amendment is sought pursuant to
22 Section 26215 and the reason for desiring the amendment.

23 (f) The forms shall contain a provision whereby the applicant attests to the truth
24 of statements contained in the application.

25 (g) An applicant shall not be required to complete any additional application or
26 form for a license, or to provide any information other than that necessary to
27 complete the standard application form described in subdivision (a), except to
28 clarify or interpret information provided by the applicant on the standard
29 application form.

30 (h) The standard application form described in subdivision (a) is deemed to be a
31 local form expressly exempt from the requirements of the Administrative
32 Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of
33 Division 3 of Title 2 of the Government Code.

34 (i) Any license issued upon the application shall set forth the licensee's name,
35 occupation, residence and business address, the licensee's age, height, weight,
36 color of eyes and hair, and the reason for desiring a license to carry the weapon,
37 and shall, in addition, contain a description of the weapon or weapons authorized
38 to be carried, giving the name of the manufacturer, the serial number, and the
39 caliber. The license issued to the licensee may be laminated.

40 **Comment.** Subdivision (a) of Section 26175 continues the first, second, and third sentences of
41 former Section 12051(a)(3)(A) without substantive change.

42 Subdivision (b) continues the fourth sentence of former Section 12051(a)(3)(A) without
43 substantive change.

1 Subdivision (c) continues the first sentence of former Section 12051(a)(1) without substantive
2 change.

3 Subdivision (d) continues the second sentence of former Section 12051(a)(1) without
4 substantive change.

5 Subdivision (e) continues former Section 12051(a)(2) without substantive change.

6 Subdivision (f) continues former Section 12051(a)(3)(B) without substantive change.

7 Subdivision (g) continues former Section 12051(a)(3)(C) without substantive change.

8 Subdivision (h) continues former Section 12051(a)(3)(D) without substantive change.

9 Subdivision (i) continues the third and fourth sentences of former Section 12051(a)(1) without
10 substantive change.

11 **§ 26180. False statement on application form**

12 26180. (a) Any person who files an application required by Section 26175
13 knowing that any statement contained therein is false is guilty of a misdemeanor.

14 (b) Any person who knowingly makes a false statement on the application
15 regarding any of the following is guilty of a felony:

16 (1) The denial or revocation of a license, or the denial of an amendment to a
17 license, issued pursuant to this article.

18 (2) A criminal conviction.

19 (3) A finding of not guilty by reason of insanity.

20 (4) The use of a controlled substance.

21 (5) A dishonorable discharge from military service.

22 (6) A commitment to a mental institution.

23 (7) A renunciation of United States citizenship.

24 **Comment.** Subdivision (a) of Section 26180 continues former Section 12051(b) without
25 substantive change.

26 Subdivision (b) continues former Section 12051(c) without substantive change.

27 **§ 26185. Fingerprinting and Department of Justice report**

28 26185. (a)(1) The fingerprints of each applicant shall be taken and two copies on
29 forms prescribed by the Department of Justice shall be forwarded to the
30 department.

31 (2) Upon receipt of the fingerprints and the fee as prescribed in Section 26190,
32 the department shall promptly furnish the forwarding licensing authority a report
33 of all data and information pertaining to any applicant of which there is a record in
34 its office, including information as to whether the person is prohibited under
35 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare
36 and Institutions Code from possessing, receiving, owning, or purchasing a firearm.

37 (3) No license shall be issued by any licensing authority until after receipt of the
38 report from the department.

39 (b) Notwithstanding subdivision (a), if the license applicant has previously
40 applied to the same licensing authority for a license to carry firearms pursuant to
41 this article and the applicant's fingerprints and fee have been previously forwarded
42 to the Department of Justice, as provided by this section, the licensing authority
43 shall note the previous identification numbers and other data that would provide

1 positive identification in the files of the Department of Justice on the copy of any
2 subsequent license submitted to the department in conformance with Section
3 26225 and no additional application form or fingerprints shall be required.

4 (c) If the license applicant has a license issued pursuant to this article and the
5 applicant's fingerprints have been previously forwarded to the Department of
6 Justice, as provided in this section, the licensing authority shall note the previous
7 identification numbers and other data that would provide positive identification in
8 the files of the Department of Justice on the copy of any subsequent license
9 submitted to the department in conformance with Section 26225 and no additional
10 fingerprints shall be required.

11 **Comment.** Section 26185 continues former Section 12052 without substantive change.
12 See Section 16520 ("firearm").

13 **§ 26190. Application fees**

14 26190. (a)(1) Each applicant for a new license or for the renewal of a license
15 shall pay at the time of filing the application a fee determined by the Department
16 of Justice. The fee shall not exceed the application processing costs of the
17 Department of Justice for the direct costs of furnishing the report required by
18 Section 26185.

19 (2) After the department establishes fees sufficient to reimburse the department
20 for processing costs, fees charged shall increase at a rate not to exceed the
21 legislatively approved annual cost-of-living adjustments for the department's
22 budget.

23 (3) The officer receiving the application and the fee shall transmit the fee, with
24 the fingerprints if required, to the Department of Justice.

25 (b)(1) The licensing authority of any city, city and county, or county may charge
26 an additional fee in an amount equal to the actual costs for processing the
27 application for a new license, excluding fingerprint and training costs, but in no
28 case to exceed one hundred dollars (\$100), and shall transmit the additional fee, if
29 any, to the city, city and county, or county treasury.

30 (2) The first 20 percent of this additional local fee may be collected upon filing
31 of the initial application. The balance of the fee shall be collected only upon
32 issuance of the license.

33 (c) The licensing authority may charge an additional fee, not to exceed twenty-
34 five dollars (\$25), for processing the application for a license renewal, and shall
35 transmit an additional fee, if any, to the city, city and county, or county treasury.

36 (d) These local fees may be increased at a rate not to exceed any increase in the
37 California Consumer Price Index as compiled and reported by the California
38 Department of Industrial Relations.

39 (e)(1) In the case of an amended license pursuant to Section 26215, the licensing
40 authority of any city, city and county, or county may charge a fee, not to exceed
41 ten dollars (\$10), for processing the amended license.

1 (2) This fee may be increased at a rate not to exceed any increase in the
2 California Consumer Price Index as compiled and reported by the California
3 Department of Industrial Relations.

4 (3) The licensing authority shall transmit the fee to the city, city and county, or
5 county treasury.

6 (f)(1) If psychological testing on the initial application is required by the
7 licensing authority, the license applicant shall be referred to a licensed
8 psychologist used by the licensing authority for the psychological testing of its
9 own employees. The applicant may be charged for the actual cost of the testing in
10 an amount not to exceed one hundred fifty dollars (\$150).

11 (2) Additional psychological testing of an applicant seeking license renewal
12 shall be required only if there is compelling evidence to indicate that a test is
13 necessary. The cost to the applicant for this additional testing shall not exceed one
14 hundred fifty dollars (\$150).

15 (g) Except as authorized pursuant to this section, no requirement, charge,
16 assessment, fee, or condition that requires the payment of any additional funds by
17 the applicant may be imposed by any licensing authority as a condition of the
18 application for a license.

19 **Comment.** Subdivision (a) of Section 26190 continues the first, second, and third sentences of
20 the first paragraph of former Section 12054(a) without substantive change.

21 Subdivision (b) continues the fourth, fifth, and sixth sentences of the first paragraph of former
22 Section 12054(a) without substantive change.

23 Subdivision (c) continues the first sentence of the second paragraph of former Section 12054(a)
24 without substantive change.

25 Subdivision (d) continues the second sentence of the second paragraph of former Section
26 12054(a) without substantive change.

27 Subdivision (e) continues former Section 12054(b) without substantive change.

28 Subdivision (f) continues former Section 12054(c) without substantive change.

29 Subdivision (g) continues former Section 12054(d) without substantive change.

30 **§ 26195. No license for person in prohibited class**

31 26195. (a) A license under this article shall not be issued if the Department of
32 Justice determines that the person is within a prohibited class described in [Section
33 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and
34 Institutions Code.

35 (b)(1) A license under this article shall be revoked by the local licensing
36 authority if at any time either the local licensing authority is notified by the
37 Department of Justice that a licensee is within a prohibited class described in
38 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare
39 and Institutions Code, or the local licensing authority determines that the person is
40 within a prohibited class described in [Section 12021 or 12021.1 of this code] or
41 Section 8100 or 8103 of the Welfare and Institutions Code.

42 (2) If at any time the Department of Justice determines that a licensee is within a
43 prohibited class described in [Section 12021 or 12021.1 of this code] or Section

1 8100 or 8103 of the Welfare and Institutions Code, the department shall
2 immediately notify the local licensing authority of the determination.

3 (3) If the local licensing authority revokes the license, the Department of Justice
4 shall be notified of the revocation pursuant to Section 26225. The licensee shall
5 also be immediately notified of the revocation in writing.

6 **Comment.** Subdivision (a) of Section 26195 continues former Section 12050(d) without
7 substantive change.

8 Subdivision (b) continues former Section 12050(e) without substantive change.

9 **§ 26200. Restrictions or conditions on license**

10 26200. (a) A license issued pursuant to this article may include any reasonable
11 restrictions or conditions that the issuing authority deems warranted, including
12 restrictions as to the time, place, manner, and circumstances under which the
13 licensee may carry a pistol, revolver, or other firearm capable of being concealed
14 upon the person.

15 (b) Any restrictions imposed pursuant to subdivision (a) shall be indicated on
16 any license issued.

17 **Comment.** Subdivision (a) of Section 26200 continues former Section 12050(b) without
18 substantive change.

19 Subdivision (b) continues former Section 12050(c) without substantive change.

20 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
21 “revolver”).

22 **§ 26205. Notification of applicant**

23 26205. The licensing authority shall give written notice to the applicant
24 indicating if the license under this article is approved or denied. The licensing
25 authority shall give this notice within 90 days of the initial application for a new
26 license or a license renewal, or 30 days after receipt of the applicant’s criminal
27 background check from the Department of Justice, whichever is later.

28 **Comment.** Section 26205 continues former Section 12052.5 without substantive change.

29 **§ 26210. Change of licensee’s address**

30 26210. (a) When a licensee under this article has a change of address, the license
31 shall be amended to reflect the new address and a new license shall be issued
32 pursuant to subdivision (b) of Section 26215.

33 (b) The licensee shall notify the licensing authority in writing within 10 days of
34 any change in the licensee’s place of residence.

35 (c) If the license is one to carry concealed a pistol, revolver, or other firearm
36 capable of being concealed upon the person, then it may not be revoked solely
37 because the licensee changes his or her place of residence to another county if the
38 licensee has not breached any conditions or restrictions set forth in the license or
39 has not fallen into a prohibited class described in [Section 12021 or 12021.1 of
40 this code] or Section 8100 or 8103 of the Welfare and Institutions Code. However,
41 any license issued pursuant to Section 26150 or 26155 shall expire 90 days after

1 the licensee moves from the county of issuance if the licensee’s place of residence
2 was the basis for issuance of the license.

3 (d) If the license is one to carry loaded and exposed a pistol, revolver, or other
4 firearm capable of being concealed upon the person, the license shall be revoked
5 immediately upon a change of the licensee’s place of residence to another county.

6 **Comment.** Subdivision (a) of Section 26210 continues former Section 12050(f)(2) without
7 substantive change.

8 Subdivision (b) continues former Section 12050(f)(4)(A) without substantive change.

9 Subdivision (c) continues former Section 12050(f)(4)(B) without substantive change.

10 Subdivision (d) continues former Section 12050(f)(4)(C) without substantive change.

11 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
12 “revolver”).

13 **Staff Note.** Existing Section 12050(f)(4)(B) provides:

14 (B) If the license is one to carry concealed a pistol, revolver, or other firearm capable of
15 being concealed upon the person, then it may not be revoked solely because the licensee
16 changes his or her place of residence to another county if the licensee has not breached any
17 conditions or restrictions set forth in the license *or* has not fallen into a prohibited class
18 described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare
19 and Institutions Code. However, any license issued pursuant to subparagraph (A) or (B) of
20 paragraph (1) of subdivision (a) shall expire 90 days after the licensee moves from the county
21 of issuance if the licensee’s place of residence was the basis for issuance of the license.

22 The wording of this provision is somewhat awkward. Instead of stating all of the conditions at the
23 beginning of the first sentence, one condition is stated at the beginning of the sentence (“If the
24 license is one to carry concealed ...”) and other conditions are stated at the end (“if the licensee
25 has not breached any ...”).

26 The staff considered revising the sentence to improve its structure. We noticed, however, a
27 possible error in the sentence.

28 Specifically, the sentence says that a license to carry a handgun may not be revoked solely due
29 to a change in county of residence “if the licensee has not breached any conditions or restrictions
30 set forth in the license *or* has not fallen into a prohibited class described in Section 12021 or
31 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.” (Emphasis
32 added.) The use of “or” suggests that the two requirements are alternatives: It is enough to satisfy
33 one or the other; it is not necessary to fulfill both.

34 We suspect, however, that the actual intent is otherwise. In other words, to avoid having a
35 license to carry a concealed handgun revoked due to a change in county of residence, *both* of the
36 following must be true: (1) the licensee must not have breached any conditions or restrictions set
37 forth in the license, *and* (2) the licensee must not have fallen into a prohibited class.

38 If that is the actual intent, proposed Section 26210 should perhaps be revised as follows:

39 26210. (a) When a licensee under this article has a change of address, the license shall be
40 amended to reflect the new address and a new license shall be issued pursuant to [paragraph
41 (3)].

42 (b) The licensee shall notify the licensing authority in writing within 10 days of any change
43 in the licensee’s place of residence.

44 ~~(c) If the license is one to carry concealed a pistol, revolver, or other firearm capable of~~
45 ~~being concealed upon the person, then it may not be revoked solely because the licensee~~
46 ~~changes his or her place of residence to another county if the licensee has not breached any~~
47 ~~conditions or restrictions set forth in the license or has not fallen into a prohibited class~~
48 ~~described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare~~
49 ~~and Institutions Code. However, any license issued pursuant to Section 26150 or 26155 shall~~

1 ~~expire 90 days after the licensee moves from the county of issuance if the licensee's place of~~
2 ~~residence was the basis for issuance of the license.~~

3 ~~(d) If the license is one to carry loaded and exposed a pistol, revolver, or other firearm~~
4 ~~capable of being concealed upon the person, the license shall be revoked immediately upon a~~
5 ~~change of the licensee's place of residence to another county.~~

6 (c) If both of the following conditions are satisfied, a license to carry a concealed handgun
7 may not be revoked solely because the licensee's place of residence has changed to another
8 county:

9 (1) The licensee has not breached any of the conditions or restrictions set forth in the
10 license.

11 (2) The licensee has not fallen into a prohibited class described in [Section 12021 or
12 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions Code.

13 (d) Notwithstanding subdivision (c), if a licensee's place of residence was the basis for
14 issuance of a license, any license issued pursuant to Section 26150 or 26155 shall expire 90
15 days after the licensee moves from the county of issuance.

16 (e) A license to carry a loaded and exposed handgun shall be revoked immediately upon a
17 change of the licensee's place of residence to another county.

18 Because this a strictly nonsubstantive study, the staff did not take this approach. Unless the
19 Commission otherwise directs, we will add this issue to the Commission's list of "Minor Clean-
20 up Issues for Possible Future Legislative Attention." See Memorandum 2008-41.

21 **§ 26215. Amendment of license**

22 26215. (a) A person issued a license pursuant to this article may apply to the
23 licensing authority for an amendment to the license to do one or more of the
24 following:

25 (1) Add or delete authority to carry a particular pistol, revolver, or other firearm
26 capable of being concealed upon the person.

27 (2) Authorize the licensee to carry concealed a pistol, revolver, or other firearm
28 capable of being concealed upon the person.

29 (3) If the population of the county is less than 200,000 persons according to the
30 most recent federal decennial census, authorize the licensee to carry loaded and
31 exposed in that county a pistol, revolver, or other firearm capable of being
32 concealed upon the person.

33 (4) Change any restrictions or conditions on the license, including restrictions as
34 to the time, place, manner, and circumstances under which the person may carry a
35 pistol, revolver, or other firearm capable of being concealed upon the person.

36 (b) If the licensing authority amends the license, a new license shall be issued to
37 the licensee reflecting the amendments.

38 (c) An amendment to the license does not extend the original expiration date of
39 the license and the license shall be subject to renewal at the same time as if the
40 license had not been amended.

41 (d) An application to amend a license does not constitute an application for
42 renewal of the license.

43 **Comment.** Subdivision (a) of Section 26215 continues former Section 12050(f)(1) without
44 substantive change.

45 Subdivision (b) continues former Section 12050(f)(3) without substantive change.

46 Subdivision (c) continues former Section 12050(f)(5) without substantive change.

1 Subdivision (d) continues former Section 12050(f)(6) without substantive change.
2 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
3 “revolver”).

4 **§ 26220. Duration of license**

5 26220. (a) Except as otherwise provided in this section and in subdivision (c) of
6 Section 26210, a license issued pursuant to Section 26150 or 26155 is valid for
7 any period of time not to exceed two years from the date of the license.

8 (b) If the licensee’s place of employment or business was the basis for issuance
9 of a license pursuant to Section 26150, the license is valid for any period of time
10 not to exceed 90 days from the date of the license. The license shall be valid only
11 in the county in which the license was originally issued. The licensee shall give a
12 copy of this license to the licensing authority of the city, county, or city and
13 county in which the licensee resides. The licensing authority that originally issued
14 the license shall inform the licensee verbally and in writing in at least 16-point
15 type of this obligation to give a copy of the license to the licensing authority of the
16 city, county, or city and county of residence. Any application to renew or extend
17 the validity of, or reissue, the license may be granted only upon the concurrence of
18 the licensing authority that originally issued the license and the licensing authority
19 of the city, county, or city and county in which the licensee resides.

20 (c) A license issued pursuant to Section 26150 or 26155 is valid for any period
21 of time not to exceed three years from the date of the license if the license is
22 issued to any of the following individuals:

- 23 (1) A judge of a California court of record.
24 (2) A full-time court commissioner of a California court of record.
25 (3) A judge of a federal court.
26 (4) A magistrate of a federal court.

27 (d) A license issued pursuant to Section 26150 or 26155 is valid for any period
28 of time not to exceed four years from the date of the license if the license is issued
29 to a custodial officer who is an employee of the sheriff as provided in Section
30 831.5, except that the license shall be invalid upon the conclusion of the person’s
31 employment pursuant to Section 831.5 if the four-year period has not otherwise
32 expired or any other condition imposed pursuant to this article does not limit the
33 validity of the license to a shorter time period.

34 (e) A license issued pursuant to Section 26170 to a peace officer appointed
35 pursuant to Section 830.6 is valid for any period of time not to exceed four years
36 from the date of the license, except that the license shall be invalid upon the
37 conclusion of the person’s appointment pursuant to Section 830.6 if the four-year
38 period has not otherwise expired or any other condition imposed pursuant to this
39 article does not limit the validity of the license to a shorter time period.

40 **Comment.** Subdivision (a) of Section 26220 continues former Section 12050(a)(2)(A)(i)
41 without substantive change.

42 Subdivision (b) continues former Section 12050(a)(2)(A)(ii) without substantive change.

43 Subdivision (c) continues former Section 12050(a)(2)(C) without substantive change.

- 1 Subdivision (d) continues former Section 12050(a)(2)(D) without substantive change.
2 Subdivision (e) continues former Section 12050(a)(2)(B) without substantive change.

3 **§ 26225. Duties of licensing authority and Attorney General**

4 26225. (a) A record of the following shall be maintained in the office of the
5 licensing authority:

- 6 (1) The denial of a license.
7 (2) The denial of an amendment to a license.
8 (3) The issuance of a license.
9 (4) The amendment of a license.
10 (5) The revocation of a license.

11 (b) Copies of each of the following shall be filed immediately by the issuing
12 officer or authority with the Department of Justice:

- 13 (1) The denial of a license.
14 (2) The denial of an amendment to a license.
15 (3) The issuance of a license.
16 (4) The amendment of a license.
17 (5) The revocation of a license.

18 (c)(1) Commencing on or before January 1, 2000, and annually thereafter, each
19 licensing authority shall submit to the Attorney General the total number of
20 licenses issued to peace officers pursuant to Section 26170, and to judges pursuant
21 to Section 26150 or 26155.

22 (2) The Attorney General shall collect and record the information submitted
23 pursuant to this subdivision by county and licensing authority.

24 **Comment.** Section 26225 continues former Section 12053 without substantive change.

25 CHAPTER 5. RETIRED PEACE OFFICER CARRYING
26 CONCEALED AND LOADED FIREARM

27 **Staff Note.** Existing law contains extensive provisions relating to identification certificates
28 for retired peace officers and endorsements on those certificates authorizing officers to (1) carry a
29 concealed firearm, (2) carry a loaded firearm, or (3) carry a concealed and loaded firearm. The
30 current and proposed future locations of those provisions are as follows:

- 31 • Existing Section 12027(a) (peace officer exemption to crime of carrying concealed
32 firearm). This material would be recodified as proposed Sections 25450-25475.
33 • Existing Section 12031(b)(1)-(3) (peace officer exemption to crime of carrying loaded
34 firearm in public). This material would be recodified as proposed Sections 25900-25925.
35 • Existing Section 12027.1 (retired peace officer carrying concealed and loaded firearm).
36 This material would be recodified as proposed Sections 26300-26325.

37 There is much repetition among these three separate sets of statutory material, albeit in
38 different contexts. The material could perhaps be reorganized more concisely, without any change
39 in meaning.

40 To avoid any risk of a substantive change, the staff advises against attempting such
41 reorganization in the context of this nonsubstantive study. Unless the Commission otherwise
42 directs, we will add this issue to the Commission's list of "Minor Clean-up Issues for Possible
43 Future Legislative Attention." See Memorandum 2008-41.

1 **§ 26300. Requirements for retired peace officer to carry concealed and loaded firearm**

2 26300. (a) Any peace officer listed in Section 830.1 or 830.2 or subdivision (c)
3 of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a
4 concealed and loaded firearm if the agency issued the officer an identification
5 certificate and the certificate has not been stamped as specified in Section 25470.

6 (b) Any peace officer employed by an agency and listed in Section 830.1 or
7 830.2 or subdivision (c) of Section 830.5 who retired after January 1, 1981, shall
8 have an endorsement on the officer’s identification certificate stating that the
9 issuing agency approves the officer’s carrying of a concealed and loaded firearm.

10 (c) Any peace officer not listed in subdivision (a) or (b) who was authorized to,
11 and did, carry a firearm during the course and scope of employment as a peace
12 officer shall have an endorsement on the officer’s identification certificate stating
13 that the issuing agency approves the officer’s carrying of a concealed and loaded
14 firearm.

15 **Comment.** Subdivision (a) of Section 26300 continues former Section 12027.1(a)(1)(A)(ii)
16 without substantive change.

17 Subdivision (b) continues former Section 12027.1(a)(1)(A)(i) without substantive change.

18 Subdivision (c) continues former Section 12027.1(a)(1)(A)(iii) without substantive change.

19 Section 26300 and the other provisions in this article provide guidance on a retired peace
20 officer carrying a concealed and loaded firearm. For guidance on a retired peace officer carrying a
21 concealed firearm, see Sections 25450-25475. For guidance on a retired peace officer carrying a
22 loaded firearm, see Sections 25900-25925.

23 See Section 16520 (“firearm”).

24 **§ 26305. Grounds for revocation or denial of privilege to carry concealed and loaded**
25 **firearm**

26 26305. (a) No peace officer who is retired after January 1, 1989, because of a
27 psychological disability shall be issued an endorsement to carry a concealed and
28 loaded firearm pursuant to this article.

29 (b) A retired peace officer may have the privilege to carry a concealed and
30 loaded firearm revoked or denied by violating any departmental rule, or state or
31 federal law that, if violated by an officer on active duty, would result in that
32 officer’s arrest, suspension, or removal from the agency.

33 (c) An identification certificate authorizing the officer to carry a concealed and
34 loaded firearm or an endorsement may be revoked or denied by the issuing agency
35 only upon a showing of good cause. Good cause shall be determined at a hearing,
36 as specified in Section 26320.

37 **Comment.** Subdivision (a) of Section 26305 continues former Section 12027.1(e) without
38 substantive change.

39 Subdivision (b) continues former Section 12027.1(a)(2) without substantive change.

40 Subdivision (c) continues former Section 12027.1(a)(1)(B) & (b)(1) without substantive
41 change.

42 See Section 16520 (“firearm”).

1 **§ 26310. Procedure for denial of privilege to carry concealed and loaded firearm**

2 26310. (a) An identification certificate authorizing the officer to carry a
3 concealed and loaded firearm or an endorsement may be denied prior to a hearing.

4 (b) If a hearing is not conducted prior to the denial of an endorsement, a retired
5 peace officer, within 15 days of the denial, shall have the right to request a
6 hearing. A retired peace officer who fails to request a hearing pursuant to this
7 section shall forfeit the right to a hearing.

8 **Comment.** Section 26310 continues former Section 12027.1(b)(3) without substantive change.
9 See Section 16520 (“firearm”).

10 **§ 26315. Procedure for revocation of privilege to carry concealed and loaded firearm**

11 26315. (a) An identification certificate authorizing the officer to carry a
12 concealed and loaded firearm or an endorsement may be revoked only after a
13 hearing, as specified in Section 26320.

14 (b) Any retired peace officer whose identification certificate authorizing the
15 officer to carry a concealed and loaded firearm or an endorsement is to be revoked
16 shall receive notice of the hearing. Notice of the hearing shall be served either
17 personally on the retiree or sent by first-class mail, postage prepaid, return receipt
18 requested to the retiree’s last known place of residence.

19 (c) Upon the date the agency receives the signed registered receipt or upon the
20 date the notice is served personally on the retiree, the retiree shall have 15 days to
21 respond to the notification. A retired peace officer who fails to respond to the
22 notice of the hearing shall forfeit the right to respond.

23 **Comment.** Section 26315 continues former Section 12027.1(b)(2) without substantive change.
24 See Section 16520 (“firearm”).

25 **§ 26320. Hearing**

26 26320. (a) Any hearing conducted under this article shall be held before a three-
27 member hearing board. One member of the board shall be selected by the agency
28 and one member shall be selected by the retired peace officer or his or her
29 employee organization. The third member shall be selected jointly by the agency
30 and the retired peace officer or his or her employee organization.

31 (b) Any decision by the board shall be binding on the agency and the retired
32 peace officer.

33 **Comment.** Section 26320 continues former Section 12027.1(d) without substantive change.

34 **§ 26325. Procedure when privilege to carry concealed and loaded firearm is revoked**

35 26325. (a) A retired peace officer, when notified of the revocation of the
36 privilege to carry a concealed and loaded firearm, after the hearing, or upon
37 forfeiting the right to a hearing, shall immediately surrender to the issuing agency
38 the officer’s identification certificate.

39 (b) The issuing agency shall reissue a new identification certificate without an
40 endorsement.

1 (c) Notwithstanding subdivision (b), if the peace officer retired prior to January
2 1, 1981, and was at the time of retirement a peace officer listed in Section 830.1 or
3 830.2 or subdivision (c) of Section 830.5, the issuing agency shall stamp on the
4 identification certificate “No CCW privilege.”

5 **Comment.** Section 26325 continues former Section 12027.1(c) without substantive change.
6 See Sections 16360 (“CCW”), 16520 (“firearm”).
