First Supplement to Memorandum 2008-62

Nonsubstantive Reorganization of Deadly Weapon Statutes
(Staff Draft Preliminary Part)

Memorandum 2008-62 presents a staff draft of a “preliminary part” for the tentative recommendation on nonsubstantive reorganization of the deadly weapon statutes. The staff has spotted the following errors in that draft:

- On page 1, line 36, the Governor’s last name is misspelled.
- At page 2 of Appendix A, the discussion of Section 12072(f)(1)(B) lacks a citation to proposed Section 27555.
- At page 3 of Appendix A, the discussion of Section 12305 is not fully accurate.

The staff regrets these errors. A corrected version of Appendix A is attached. We will correct the spelling error in the next draft of the preliminary part.

Respectfully submitted,

Brian Hebert
Executive Secretary
APPENDIX A: CORRECTED CROSS-REFERENCES

In reorganizing the provisions on control of deadly weapons, the Law Revision Commission found some provisions that contain one or more incomplete or incorrect cross-references. Where the proper cross-reference is obvious, the Commission corrected the cross-reference in drafting its proposed legislation. That approach seemed more sensible than perpetuating a plainly incorrect cross-reference.

Those instances are described in detail below:

1. Section 12031(b)(7) refers to armored vehicle guards “as defined in Section 7521 of the Business and Professions Code ....” The cross-reference to Business and Professions Code Section 7521 is incorrect. That section used to define “armored vehicle guard,” but now it only defines “private investigator.” The definition of “armored vehicle guard” has been relocated to Business and Professions Code Section 7582.1(d). The proposed law would correct this erroneous cross-reference.¹

2. Section 12031(d)(3) refers to private investigators and private patrol operators “who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code ....” Similarly, Section 12031(d)(6) refers to uniformed employees of “private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code ....” These cross-references are incorrect. Private investigators are now licensed pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. Private patrol operators are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code. The proposed law would correct these erroneous cross-references.²

3. Section 12070(b)(2) refers to “a person acting pursuant to subdivision (e) of Section 186.22a.” The cross-reference to subdivision (e) of Section 186.22a does not make sense, because that provision simply says: “Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.” The correct cross-reference is to subdivision (f) of the same section, which concerns confiscation of firearms, ammunition, and deadly weapons as a nuisance, and disposal of the items following confiscation. It was formerly labeled as subdivision (e). The proposed law would correct this erroneous cross-reference.³

¹. See proposed Section 26015 infra.
². See proposed Section 26030 infra.
³. See proposed Section 26510 infra.
• Section 12072(f)(1)(B) says: “For every identification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers pursuant to this section.” The italicized cross-reference is incorrect, because Section 12072 does not provide for a centralized list of firearms dealers. That is done in Section 12071(e). The proposed law would correct this erroneous cross-reference.

• Section 12078(i)(2)(A) refers to “a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure.” The reference to Code of Civil Procedure Section 680.210 is incorrect. That provision defines “general intangibles,” not “levying officer.” The definition of “levying officer” is in Code of Civil Procedure Section 680.260 instead. The proposed law would correct this erroneous cross-reference.

• Section 12081(b)(5) says: “The Department of Justice shall review subsequent arrests ... to determine the continuing validity of the permit as specified in subdivision (d) for all entertainment firearms permit holders.” The cross-reference to subdivision (d) is obviously incorrect, because subdivision (d) does not relate to the continuing validity of an entertainment firearms permit. The correct cross-reference is to subdivision (f), which was originally labeled as subdivision (d) in the bill enacting Section 12081. Apparently due to inadvertence, the cross-reference was not adjusted when the bill was amended and the subdivisions were relabeled. The proposed law would correct this erroneous cross-reference.

• Section 12101(c)(1)(B) cross-refers to Section 12560. That provision existed when Section 12101 was added to the codes in 1988, but it has since been repealed. Consequently, there is no need to continue the cross-reference. The proposed law would delete this obsolete cross-reference.

• Section 12101(d) cross-refers to “Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and Institutions Code.” That cross-reference is incomplete. The correct cross-reference is to “Article 1 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code.” The proposed law would correct this incomplete cross-reference.

• Section 12276.5 cross-refers to “Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.” That cross-

4. Emphasis added.
5. See proposed Section 27555 infra.
6. See proposed Section 27920 infra.
7. See SB 231 (Scott & Murray), as amended Aug. 9, 2004.
8. See proposed Section 29520 infra.
10. See proposed Section 29700 infra.
11. See proposed Section 29705 infra.
reference is incomplete. The correct cross-reference is to “Chapter 3.5 (commencing with Section 11340) of Part I of Division 3 of Title 2 of the Government Code. The proposed law would correct this incomplete cross-reference.12

• Section 12280(u)(3) refers to the “operative date of Section 12276.1, as specified in subdivision (d) of that section.” The cross-reference to subdivision (d) is incorrect. The operative date of January 1, 2000, was originally stated in subdivision (d), but it is now stated in subdivision (e) instead. The proposed law would correct this mistake by referring directly to the operative date of January 1, 2000.13

• Section 12305 contains two references to a permit granted or issued pursuant to “this article.” Section 12305 is not part of an article. It is located in a chapter that is not divided into articles. The references to “this article” are plainly erroneous. Under existing law, the correct reference is to “this section,” because Section 12305 is the only section in its chapter that relates to the granting or issuance of a permit. In the proposed law, however, the substance of Section 12305 would be continued in an article.14 The references to “this article” would therefore be left intact, because they would no longer be erroneous.15

• Section 12316(c) refers to “an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code ....” The cross-reference to Business and Professions Code Section 7521(e) is incorrect. That section used to define “armored vehicle guard,” but now it only defines “private investigator.” The definition of “armored vehicle guard” has been relocated to Business and Professions Code Section 7582.1(d). The proposed law would correct this erroneous cross-reference.16

• Section 12403.8(a) refers to “paragraph (4) of subdivision (a) of Section 12403.7,” which does not exist. The obvious intent is to refer to subdivision (d) of Section 12403.7, which used to be paragraph (4) of subdivision (a).17 The proposed law would correct that error.18

• Section 12403.8(b) refers to “paragraph (3) of subdivision (a) of Section 12403.7,” which does not exist. The obvious intent is to refer to subdivision

12. See proposed Section 30520 infra.
13. See proposed Section 30620(c) infra.
14. See proposed Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2 of Part 6 infra.
15. See proposed Sections 18905, 18910 infra.
16. See proposed Section 30310 infra.
18. See proposed Section 22815(a) infra.
(c) of Section 12403.7, which used to be paragraph (3) of subdivision (a).\textsuperscript{19} The proposed law would correct that error.\textsuperscript{20}

- Section 12403.5 refers to a “person holding a license as a private investigator or private patrol operator issued pursuant to Chapter 11 (commencing with Section 7500), Division 3 of the Business and Professions Code.” However, Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code no longer relates to private investigators and private patrol operators. Instead, it relates to repossessors. The provisions governing private investigators are now located in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. The provisions governing private patrol operators are now located in Chapter 11.5 (commencing with Section 7580) of the same division. The proposed law would correct the erroneous cross-reference.\textsuperscript{21}

\textsuperscript{20}. See proposed Section 22815(b) \textit{infra}.
\textsuperscript{21}. See proposed Section 22835 \textit{infra}.