

Memorandum 2009-42

**Nonsubstantive Reorganization of Deadly Weapon Statutes:
Statutory References to Former Law**

At the June meeting, the Commission approved a final recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes*. The Commission submitted a 656-page pre-print version of its report to the Legislature on July 1, 2009, in compliance with the statutory deadline.

The proposed legislation in that report includes a number of provisions that would refer to a former law (e.g., “former Section 12076”). At the June meeting, the Legislative Counsel (Commissioner Diane Boyer-Vine) expressed concern about these references, because most of them do not specify which version of the former law is being referenced. As a general rule, the Office of Legislative Counsel takes the position that when a statute refers to a former law, it should be clear which version (or versions) of the former law is being referenced. The Commission directed the staff to “work with the Office of Legislative Counsel and key stakeholders to resolve how to handle this matter as the Commission’s recommendation is converted into legislation.” Minutes (June 2009), p. 6.

To that end, the staff has since examined each provision in the pre-print report that would refer to a former law. Some of the references to a former law already exist in the Penal Code and would merely be perpetuated in the Commission’s proposed legislation. For example, Penal Code Section 12072(g) refers to “former Section 12560.” Proposed Section 27590 in the pre-print report would continue the substance of Section 12072(g), including the reference to “former Section 12560.”

Other references are to a provision that currently exists but would be repealed and recodified by the Commission’s proposed legislation. For example, Penal Code Section 12276(d) currently refers to a “firearm declared by the court pursuant to *Section 12276.5* to be an assault weapon.” (Emphasis added.) Proposed Section 30510(d) would continue the substance of Section 12276(d), but would refer to a “firearm declared by the court pursuant to *former Section 12276.5*

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to be an assault weapon.” (Emphasis added.) The reference would be to “former Section 12276.5” because only the older versions of Section 12276.5 permit a court to declare that a firearm is an assault weapon. The current version of Section 12276.5, which the Commission is proposing to recodify as Section 30520, does not provide such a procedure. Consequently, it would not make sense to refer to “firearm declared by the court pursuant to *Section 30520* to be an assault weapon.”

With regard to each proposed statutory reference to a former law, the staff assessed which version (or versions) of the former law is being referenced. We then considered how to revise the proposed legislation to specify the appropriate version.

After developing a draft, we sent it to the Office of Legislative Counsel for consideration. Byron Damiani of that office provided helpful and detailed feedback, for which we are very grateful. In response to his comments, we made various changes to the draft.

The staff’s current draft is attached. To facilitate review, the references to former law are shown in boldface. Suggested revisions of the language in the pre-print report are shown in strikeout and underscore.

These revisions are intended to satisfy the Legislative Counsel’s concern about providing specificity when referring to a former law. **The Commission could either:**

- (1) adopt the revisions as its own (with or without change), and incorporate them into both the final printed version of its recommendation and the bill to implement that recommendation; or
- (2) simply incorporate the revisions into the bill, without incorporating them into the final printed version of its recommendation.

To decide how to proceed, the Commission should weigh the benefits of providing specificity against any negative impact on readability and any potential for generating concern about a possible substantive change.

For some of the provisions, a Staff Note raises issues for consideration, or helps to explain why the staff drafted the provision in the manner shown. For other provisions, there is no Staff Note, because the staff had no issues to raise and the reasons for the staff’s drafting decisions seem evident from the proposed statutory text and Comment.

Like the proposed legislation, a few of the conforming revisions in the Commission's pre-print report refer to a former law. The staff's recommendations regarding these conforming revisions are presented at the end of the attachment.

In preparing the attachment, the staff made no attempt to incorporate 2009 legislation, because bills were still pending before the Governor. If necessary, we will prepare a supplement to this memorandum before the Commission meets, which will discuss any adjustments that appear necessary to incorporate 2009 legislation.

Commissioners, stakeholders, and other interested persons are encouraged to review the attached draft and share their views on it, preferably at or before the Commission's October meeting. Any comments submitted before the meeting will be presented in a supplement to this memorandum, and analyzed as time permits.

In addressing the matters discussed in this memorandum, the staff had the benefit of assistance from Lucinda Calvo, who worked for the Commission as a volunteer during the summer of 2009, and who is currently a third year student at UC Davis School of Law. The staff appreciates her careful and diligent work on this matter.

Respectfully submitted,

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Chief Deputy Counsel

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PROPOSED LEGISLATION THAT REFERS TO FORMER LAW

☞ Staff Note. Some of the proposed provisions in the Commission’s 6/24/09 pre-print report on *Nonsubstantive Reorganization of Deadly Weapons Statutes* would contain one or more statutory references to former law. Those provisions are shown below, with the statutory references to former law in boldface. All of these provisions would be placed in the Penal Code.

As a general rule, the Office of Legislative Counsel takes the position that when a statute refers to a former law, it should be clear which version (or versions) of the former law is being referenced. To provide such specificity, the Commission needs to make some revisions of the provisions shown below.

The staff has reviewed each of those provisions and assessed how to provide the necessary specificity. The staff’s suggested revisions of each provision are shown in strikeout and underscore below.

Commissioners, stakeholders, and other interested persons should review these suggested revisions and determine whether they are acceptable.

For some of the provisions, a Staff Note raises issues for consideration, or helps to explain why the staff drafted the provision in the manner shown. For other provisions, there is no Staff Note, because the staff had no issues to raise and the reasons for the staff’s drafting decisions seem evident from the proposed statutory text and Comment.

§ 16000. Deadly Weapons Recodification Act of 2012

16000. This act recodifies the provisions of **former Title 2 (commencing with Section 12000) of Part 4**, which was entitled “Control of Deadly Weapons.” The act shall be known and may be cited as the “Deadly Weapons Recodification Act of 2012.”

Comment. Section 16000 provides a convenient means of referring to the recodification of former Sections 12000-12809. For background, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, __ Cal. L. Revision Comm’n Reports __ (2009).

☞ Staff Note. This provision does not require any revisions. It is already sufficiently specific, because it says that “[t]his act *recodifies* the provisions of former Title 2 (commencing with Section 12000) of Part 4, which *was* entitled “Control of Deadly Weapons.” (Emphasis added.)

§ 16240. “Basic firearms safety certificate”

16240. As used in this part, “basic firearms safety certificate” means a certificate issued before January 1, 2003, by the Department of Justice pursuant to **former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4**, before January 1, 2003 as that article read at any time from when it became operative on January 1, 1992, to when it was repealed on January 1, 2003.

Comment. Section 16240 continues former Section 12001(p) without substantive change. Former Article 8 of Chapter 6 of Title 2 of Part 4, entitled “Basic Firearms Safety Instruction and Certificate,” was enacted by 1991 Cal. Stat. ch. 950, § 20, and became operative on January 1, 1992. The article was repealed on January 1, 2003, pursuant to the terms of former Section 12810 (2001 Cal. Stat. ch. 942, § 11).

See Sections 16160 (“antique cannon”), 16180 (“antique rifle”), 16490 (“explosive”).

§ 16575. “Former Article 4 of Chapter 1 provisions”

16575. (a) Except as stated in subdivision (c), the following provisions ~~were formerly~~ are continuations of provisions that were included in former Article 4 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4, which was entitled “Licenses to Sell Firearms” Firearms, when that article was repealed by the Deadly Weapons Recodification Act of 2012:

(1) Section 16130.

(2) Subdivision (b) of Section 16170, to the extent that it continues **former Sections 12078 and 12085**, as those sections read when they were repealed by the Deadly Weapons Recodification Act of 2012.

(3) Section 16230.

(4) Section 16400.

(5) Section 16450, to the extent that it continues **subdivision (a) of former Section 12086**, as that subdivision read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(6) Subdivisions (b) and (d) of Section 16520, to the extent that they continue **subdivision (e) of former Section 12085**, as that subdivision read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(7) Subdivision (g) of Section 16520.

(8) Section 16550.

(9) Section 16620.

(10) Section 16720.

(11) Section 16730.

(12) Section 16740, to the extent that it continues **subdivision (b) of former Section 12079**, as that subdivision read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(13) Section 16800.

(14) Section 16810.

(15) Section 16960.

(16) Section 16990.

(17) Section 17110.

(18) Section 17310.

(19) Sections 26500 to 26585, inclusive.

(20) Sections 26600 to 29150, inclusive.

(21) Chapter 2 (commencing with Section 29500) of Division 8 of Title 4.

(22) Section 30105.

(23) Sections 30150 to 30165, inclusive.

(24) Sections 31705 to 31830, inclusive.

(25) Section 32315.

(26) Section 34205.

(27) Sections 34350 to 34370, inclusive.

(b) Except as stated in subdivision (c), the provisions listed in subdivision (a) may be referred to as **“former Article 4 of Chapter 1 provisions.”**

(c) Subdivision (a) does not include any ~~section that is~~ provision that was first codified in one of the specified numerical ranges after the effective date of the Deadly Weapons Recodification Act of 2012.

Comment. Section 16575 is new. It provides a convenient means of referring to former Sections 12070-12086.

For a disposition table showing where each provision in former Sections 12070-12086 was recodified, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, __ Cal. L. Revision Comm'n Reports __ (2009).

§ 16580. "Former Chapter 1 provisions"

16580. (a) Except as stated in subdivision (c), the following provisions ~~were formerly~~ are continuations of provisions that were included in former Chapter 1 (commencing with Section 12000) of Title 2 of Part 4, which was entitled "Firearms" "Firearms," when that chapter was repealed by the Deadly Weapons Recodification Act of 2012:

(1) Sections 12001 to 12022.95, inclusive.

(2) Sections 16120 to 16140, inclusive.

(3) Subdivision (b) of Section 16170, to the extent it continues **former Sections 12001, 12078, 12085, and 12088.8**, as those sections read when they were repealed by the Deadly Weapons Recodification Act of 2012.

(4) Subdivision (c) of Section 16170.

(5) Section 16190.

(6) Sections 16220 to 16240, inclusive.

(7) Section 16250, to the extent it continues **former Section 12001**, as that section read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(8) Section 16260.

(9) Sections 16320 to 16340, inclusive.

(10) Section 16360.

(11) Sections 16400 and 16410.

(12) Section 16430.

(13) Section 16450, to the extent it continues **former Section 12086**, as that section read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(14) Subdivision (b) of Section 16460.

(15) Section 16470.

(16) Section 16490.

(17) Subdivision (a) of Section 16520, to the extent it continues **former Section 12001**, as that section read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(18) Subdivisions (b) to (g), inclusive, of Section 16520.

(19) Sections 16530 to 16550, inclusive.

(20) Section 16570.

(21) Sections 16600 to 16640, inclusive.

- (22) Sections 16670 to 16690, inclusive.
- (23) Sections 16720 to 16760, inclusive.
- (24) Sections 16800 and 16810.
- (25) Sections 16830 to 16870, inclusive.
- (26) Sections 16920 to 16960, inclusive.
- (27) Sections 16990 and 17000.
- (28) Sections 17020 to 17070, inclusive.
- (29) Section 17090, to the extent it continues **former Section 12020**, as that section read when it was repealed by the Deadly Weapons Recodification Act of 2012.

- (30) Section 17110.
- (31) Section 17125.
- (32) Section 17160.
- (33) Sections 17170 to 17200, inclusive.
- (34) Sections 17270 to 17290, inclusive.
- (35) Section 17310.
- (36) Sections 17330 to 17505, inclusive.
- (37) Sections 17515 to 18500, inclusive.
- (38) Sections 19100 to 19290, inclusive.
- (39) Sections 20200 to 21390, inclusive.
- (40) Sections 21790 to 22490, inclusive.
- (41) Sections 23500 to 30290, inclusive.
- (42) Sections 31500 to 31590, inclusive.
- (43) Sections 31705 to 31830, inclusive.
- (44) Sections 32310 to 32450, inclusive.
- (45) Sections 32900 to 33320, inclusive.
- (46) Sections 33600 to 34370, inclusive.

(b) Except as stated in subdivision (c), the provisions listed in subdivision (a) may be referred to as **“former Chapter 1 provisions.”**

(c) Subdivision (a) does not include any ~~section that is~~ provision that was first codified in one of the specified numerical ranges after the effective date of the Deadly Weapons Recodification Act of 2012.

Comment. Section 16580 is new. It provides a convenient means of referring to former Sections 12000-12101.

For a disposition table showing where each provision in former Sections 12000-12101 was recodified, see *Nonsubstantive Reorganization of Deadly Weapon Statutes*, __ Cal. L. Revision Comm’n Reports __ (2009).

§ 16585. “Former Section 12078 provisions”

16585. (a) Except as stated in subdivision ~~(e)~~ (d), the following provisions are continuations of provisions that were included in former Section 12078, as that section read in Section 20 of Chapter 698 of the Statutes of 2008 when it was repealed by the Deadly Weapons Recodification Act of 2012:

(1) Subdivision (b) of Section 16170, as it pertains to **former Section 12078**, as that section read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(2) Section 16720.

(3) Subdivision (a) of Section 16730, as it pertains to **former Section 12078**, as that section read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(4) Subdivision (b) of Section 16730.

(5) Section 16990.

(6) Sections 26600 to 26615, inclusive.

(7) Sections 26950 to 27140, inclusive.

(8) Sections 27400 to 27415, inclusive.

(9) Subdivision (b) of Section 27505, as it pertains to **former Section 12078**, as that section read when it was repealed by the Deadly Weapons Recodification Act of 2012.

(10) Sections 27600 to 28000, inclusive.

(11) Sections 28400 to 28415, inclusive.

(12) Sections 30150 to 30165, inclusive.

(13) Sections 31705 to 31830, inclusive.

(14) Sections 34355 to 34370, inclusive.

(b) Except as stated in subdivision ~~(e)~~ (d), the provisions listed in subdivision (a) may be referred to as **“former Section 12078 provisions.”**

(c) Except as stated in subdivision ~~(e)~~ (d), the following provisions are continuations of provisions that were included in subdivision (a) of former Section 12078, as that section read in Section 20 of Chapter 698 of the Statutes of 2008 subdivision read when it was repealed by the Deadly Weapons Recodification Act of 2012:

(1) Sections 26600 to 26615, inclusive.

(2) Section 26950.

(3) Sections 27050 to 27065, inclusive.

(4) Sections 27400 to 27415, inclusive.

(5) Sections 27600 to 27615, inclusive.

(6) Section 27650.

(7) Sections 27850 to 27860, inclusive.

(8) Sections 28400 to 28415, inclusive.

(9) Sections 30150 to 30165, inclusive.

(10) Sections 31705 to 31735, inclusive.

(11) Sections 34355 to 34370, inclusive.

~~(d) Except as stated in subdivision (e), the provisions listed in subdivision (c) may be referred to as “former Section 12078(a) provisions.”~~

~~(e)~~ (d) Subdivisions (a) and (c) do not include any section that is provision that was first codified in one of the specified numerical ranges after the effective date of the Deadly Weapons Recodification Act of 2012.

Comment. Section 16585 is new. It provides a convenient means of referring to the provisions that comprised former Section 12078.

For a disposition table showing where each provision in former Section 12078 was recodified, see *Nonsubstantive Recodification of Deadly Weapon Statutes*, __ Cal. L. Revision Comm'n Reports __ (2009).

§ 16670. “Handgun safety certificate”

16670. As used in this part, “handgun safety certificate” means a certificate issued by the Department of Justice pursuant to Sections 31610 to 31700, inclusive, or pursuant to **former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4**, as that article was operative ~~on or after~~ at any time from January 1, 2003, until it was repealed by the Deadly Weapons Recodification Act of 2012.

Comment. Section 16670 continues former Section 12001(q) without substantive change.

Former Article 8 of Chapter 6 of Title 2 of Part 4, entitled “Handgun Safety Certificate,” was enacted by 2001 Cal. Stat. ch. 942, § 10, and became operative on January 1, 2003 (except former Section 12804, which became operative on January 1, 2002). The article was repealed by the Deadly Weapons Recodification Act of 2012, and continued without substantive change in Sections 31610-31700 (except some definitions that are located in “Division 2. Definitions” of Title 1).

See Section 16640 (“handgun”).

§ 27590. Punishment for violation of article

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.

(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment in the state prison for two, three, or four years.

(1) If the violation is of subdivision (a) of Section 27500.

(2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, of this article or **former Section 12100 of this code**, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, or Section 8101 of the Welfare and Institutions Code.

(3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of **former Section 12560**, as that section read at any time from when it was enacted by Section 4 of Chapter 931 of the Statutes of 1965 to when it was repealed by Section 14 of Chapter 9 of the Statutes of 1990, or of any provision listed in Section 16590.

(4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) A violation of this article by a person who actively participates in a “criminal street gang” as defined in Section 186.22.

(6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(1) A violation of Section 27515, 27520, or subdivision (b) of Section 27500.

(2) A violation of Section 27505 involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person, to a minor.

(3) A violation of Section 27510 involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) A violation of Section 27545 involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(6) A violation of Section 27550.

(d) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(1) A violation of Section 27510 or subdivision (b) of Section 27500.

(2) The firearm transferred in violation of Section 27510 or subdivision (b) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(e)(1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars (\$50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars (\$100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) For purposes of this subdivision each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of Section 27535 shall be deemed a separate offense.

Comment. Section 27590 continues former Section 12072(g) without substantive change.

For guidance in applying paragraphs (b)(2), (b)(3), (e)(2), and (e)(3), see Section 16015 (determining existence of prior conviction).

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

Staff Note. Proposed Section 27590 would continue Section 12072(g). That subdivision currently refers, among other things, to (1) “a prior conviction of violating ... former Section 12100 of this code,” and (2) “a prior conviction ... of former Section 12560.”

One option would be to leave those references to former law intact, instead of trying to provide greater specificity in proposed Section 27590. The possibility of providing greater specificity could be added to the Commission’s list of “Minor Clean-Up Issues for Possible Future Legislative Attention” (Appendix B to the Commission’s pre-print report).

That option would be safest, because it would entail no risk of a substantive change. But the option may not be acceptable to the Office of Legislative Counsel. We have not yet received definitive guidance on this point.

Assuming it is necessary to provide greater specificity, the staff recommends revising proposed Section 27590 as shown in ~~strikeout~~ and underscore above. In effect, the suggested revisions

would make clear that the statute is referring to (1) a prior conviction under *any version* of former Section 12100, and (2) a prior conviction under *any version* of former Section 12560. Those conclusions appear justified because the Legislature did not single out any particular version of former Section 12100 or former Section 12560 in drafting Section 12072(g), and because the substance of the offense remained the same from version to version of each statute (only the punishment changed). See 1988 Cal. Stat. ch. 1386, § 3 (adding former Section 12100); 1990 Cal. Stat. ch. 41, § 4 (amending former Section 12100); 1991 Cal. Stat. ch. 165, § 1 (same); see also 1965 Cal. Stat. ch. 931, § 4 (adding former Section 12560); 1976 Cal. Stat. ch. 1139, § 321 (amending former Section 12560); 1983 Cal. Stat. ch. 1092, § 332 (same).

§ 28160. Form for handgun

28160. (a) For handguns, the register or record of electronic transfer shall include all of the following information:

- (1) The date and time of sale.
- (2) The make of firearm.
- (3) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.
- (4) Dealer waiting period exemption pursuant to Sections 26960 and 27660.
- (5) Dangerous weapons permitholder waiting period exemption pursuant to Sections 26965 and 27665.
- (6) Curio and relic waiting period exemption pursuant to Sections 26970 and 27670.
- (7) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.
- (8) For transactions occurring prior to January 1, 2003, the purchaser's basic firearms safety certificate number issued pursuant to **former Sections 12805 and 12809**, as those sections read at any time from when they became operative on January 1, 1992, to when they were repealed on January 1, 2003.
- (9) For transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 2 (commencing with Section 31610) of Chapter 4 of Division 10 of this title, or pursuant to **former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4**, as that article read at any time from when it became operative on January 1, 2003, to when it was repealed by the Deadly Weapons Recodification Act of 2012.
- (10) Manufacturer's name if stamped on the firearm.
- (11) Model name or number, if stamped on the firearm.
- (12) Serial number, if applicable.
- (13) Other number, if more than one serial number is stamped on the firearm.
- (14) Any identification number or mark assigned to the firearm pursuant to Section 23910.
- (15) Caliber.
- (16) Type of firearm.
- (17) If the firearm is new or used.
- (18) Barrel length.
- (19) Color of the firearm.

- (20) Full name of purchaser.
- (21) Purchaser's complete date of birth.
- (22) Purchaser's local address.
- (23) If current address is temporary, complete permanent address of purchaser.
- (24) Identification of purchaser.
- (25) Purchaser's place of birth (state or country).
- (26) Purchaser's complete telephone number.
- (27) Purchaser's occupation.
- (28) Purchaser's sex.
- (29) Purchaser's physical description.
- (30) All legal names and aliases ever used by the purchaser.
- (31) Yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Chapter 2 (commencing with Section 29800) or an offense described in Chapter 3 (commencing with Section 29900) of Division 9 of this title, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, and whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code.
- (32) Signature of purchaser.
- (33) Signature of salesperson, as a witness to the purchaser's signature.
- (34) Salesperson's certificate of eligibility number, if the salesperson has obtained a certificate of eligibility.
- (35) Name and complete address of the dealer or firm selling the firearm as shown on the dealer's license.
- (36) The establishment number, if assigned.
- (37) The dealer's complete business telephone number.
- (38) Any information required by Chapter 5 (commencing with Section 28050).
- (39) Any information required to determine whether subdivision (f) of Section 27540 applies.
- (40) A statement of the penalties for signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register.
 - (b) Effective January 1, 2003, the purchaser shall provide the purchaser's right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.
 - (c) The firearms dealer shall record on the register or record of electronic transfer the date that the handgun is delivered.

Comment. Section 28160 continues former Section 12077(b) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16240 (“basic firearms safety certificate”), 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

§ 29750. Intent of 1994 amendments

29750. In enacting the amendments to **former Sections 12078 and 12101** by Section 10 of Chapter 33 of the Statutes of 1994, First Extraordinary Session, it was not the intent of the Legislature to expand or narrow the application of the then-existing statutory and judicial authority as to the rights of minors to be loaned or to possess live ammunition or a firearm for the purpose of self-defense or the defense of others.

Comment. Section 29750 continues former Section 12101(f) without substantive change. See Section 16520 (“firearm”).

Staff Note. Proposed Section 29750 already makes clear which version of former Sections 12078 and 12101 is being referenced. There is no need to provide further specificity. The proposed provision should be left as is.

§ 29805. Firearm access by person convicted of misdemeanor violation of certain statutes or other specified offense

29805. Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, **subdivision (a) of former Section 12100**, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

Comment. Section 29805 continues former Section 12021(c)(1) without substantive change.

For an exemption from this provision, see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820). For guidance on petitioning for relief from this provision, see Sections 29855 (petition by peace officer for relief from prohibition in Section 29805) and 29860 (petition by person who was convicted of offense before that offense was added to Section 29805). For guidance on false arrest arising from enforcement of this provision, see Section

29865 (immunity from liability for false arrest). For a notice requirement relating to this provision, see Section 29810 (notice to person who is subject to Section 29800 or 29805).

See Section 16520 (“firearm”).

☞ Staff Note. Proposed Section 29805 would continue Section 12021(c)(1). That paragraph currently refers, among other things, to “any person who has been convicted of a misdemeanor violation of ... subdivision (a) of former Section 12100”

One option would be to leave the reference to “former Section 12100” intact, instead of trying to provide greater specificity in proposed Section 29805. The possibility of providing greater specificity could be added to the Commission’s list of “Minor Clean-Up Issues for Possible Future Legislative Attention” (Appendix B to the Commission’s pre-print report).

That option would be safest, because it would entail no risk of a substantive change. As with proposed Section 27590, the staff has not yet received definitive guidance on whether the above option would be acceptable to the Office of Legislative Counsel.

Assuming it is necessary to provide greater specificity, the staff recommends revising proposed Section 29805 as shown in ~~strikeout~~ and underscore above. In effect, the suggested revisions would make clear that the statute is referring to a violation of subdivision (a) of *any version* of former Section 12100. That conclusion appears justified because the Legislature did not single out any particular version of former Section 12100 in drafting Section 12021(c)(1), and because subdivision (a) remained the same from version to version of former Section 12100. See 1988 Cal. Stat. ch. 1386, § 3 (adding former Section 12100); 1990 Cal. Stat. ch. 41, § 4 (amending former Section 12100); 1991 Cal. Stat. ch. 165, § 1 (same).

§ 29875. Protocol for implementation of Section 12021, to be completed by January 1, 2005

29875. Subject to available funding, the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of ~~former Section 12021, which is continued in this chapter~~ as it reads in Section 2 of Chapter 830 of the Statutes of 2002, and as later amended at any time before completion of the protocol. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to any provision of law. The protocol shall be completed on or before January 1, 2005.

Comment. Section 29875 continues former Section 12021(i) without substantive change.

See Section 16520 (“firearm”).

☞ Staff Note. Proposed Section 29875 would continue Section 12021(i), which on its face appears obsolete because it pertains to development of a protocol that was to “be completed on or before January 1, 2005.” The Commission is proposing to continue this and other apparently obsolete sections because stakeholders requested as much, because deleting such language might raise concerns about a possible substantive change, and because the apparently obsolete language might remain useful for reference purposes. See pages 18-19 of the Commission’s pre-print report.

The staff believes this is the best approach in the context of the Commission’s study, but the approach poses drafting challenges. It is difficult to decide, for instance, whether proposed

Section 29875 should be framed in the present tense or in the past tense, and whether the provision should refer to “Section 12021” as opposed to “former Section 12021.”

The version shown above, with the revisions marked in ~~strikeout~~ and underscore, reflects the staff’s current view on the best means of handling these matters.

As so revised, proposed Section 29875 would refer to “Section 12021, as it reads in Section 2 of Chapter 830 of the Statutes of 2002, and as later amended at any time before completion of the protocol.” The version of Section 12021 in “Section 2 of Chapter 830 of the Statutes of 2002” would be the starting point, because that version was in effect when the provision directing the Attorney General to prepare a protocol was first enacted. The staff’s suggested language would also encompass amendments of Section 12021 that were enacted after 2002 but before completion of the protocol. By the express terms of Section 12021(g), the protocol was due “on or before January 1, 2005.”

§ 30510. “Assault weapon”

30510. As used in this chapter and in Sections 16780, 17000, and 27555, “assault weapon” means the following designated semiautomatic firearms:

- (a) All of the following specified rifles:
 - (1) All AK series including, but not limited to, the models identified as follows:
 - (A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.
 - (B) Norinco 56, 56S, 84S, and 86S.
 - (C) Poly Technologies AKS and AK47.
 - (D) MAADI AK47 and ARM.
 - (2) UZI and Galil.
 - (3) Beretta AR-70.
 - (4) CETME Sporter.
 - (5) Colt AR-15 series.
 - (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.
 - (7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.
 - (8) MAS 223.
 - (9) HK-91, HK-93, HK-94, and HK-PSG-1.
 - (10) The following MAC types:
 - (A) RPB Industries Inc. sM10 and sM11.
 - (B) SWD Incorporated M11.
 - (11) SKS with detachable magazine.
 - (12) SIG AMT, PE-57, SG 550, and SG 551.
 - (13) Springfield Armory BM59 and SAR-48.
 - (14) Sterling MK-6.
 - (15) Steyer AUG.
 - (16) Valmet M62S, M71S, and M78S.
 - (17) Armalite AR-180.
 - (18) Bushmaster Assault Rifle.
 - (19) Calico M-900.
 - (20) J&R ENG M-68.
 - (21) Weaver Arms Nighthawk.
- (b) All of the following specified pistols:
 - (1) UZI.

- (2) Encom MP-9 and MP-45.
- (3) The following MAC types:
 - (A) RPB Industries Inc. sM10 and sM11.
 - (B) SWD Incorporated M-11.
 - (C) Advance Armament Inc. M-11.
 - (D) Military Armament Corp. Ingram M-11.
- (4) Intratec TEC-9.
- (5) Sites Spectre.
- (6) Sterling MK-7.
- (7) Calico M-950.
- (8) Bushmaster Pistol.
- (c) All of the following specified shotguns:
 - (1) Franchi SPAS 12 and LAW 12.
 - (2) Striker 12.
 - (3) The Streetsweeper type S/S Inc. SS/12.
- (d) Any firearm declared to be an assault weapon by the court pursuant to **former Section 12276.5** ~~to be an assault weapon that~~, as it read in Section 3 of Chapter 19 of the Statutes of 1989, Section 1 of Chapter 874 of the Statutes of 1990, or Section 3 of Chapter 954 of the Statutes of 1991, which is specified as an assault weapon in a list promulgated pursuant to **former Section 12276.5**, as it read in Section 3 of Chapter 954 of the Statutes of 1991.
- (e) This section is declaratory of existing law and a clarification of the law and the Legislature's intent which bans the weapons enumerated in this section, the weapons included in the list promulgated by the Attorney General pursuant to **former Section 12276.5**, as it read in Section 3 of Chapter 954 of the Statutes of 1991, and any other models that are only variations of those weapons with minor differences, regardless of the manufacturer. The Legislature has defined assault weapons as the types, series, and models listed in this section because it was the most effective way to identify and restrict a specific class of semiautomatic weapons.
- (f) As used in this section, "series" includes all other models that are only variations, with minor differences, of those models listed in subdivision (a), regardless of the manufacturer.

Comment. Subdivisions (a)-(d) and the introductory clause of Section 30510 continue former Section 12276(a)-(d) and its introductory clause without substantive change. See also former Sections 12001(n)(11), 12072(f)(1)(A), 12282, and 12601(b)(12), which cross-referred to the definition in former Section 12276.

Subdivision (e) continues former Section 12276(f) without substantive change.

Subdivisions (d) and (e) refer to former Section 12276.5, which (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and, as amended in 1991, (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

Subdivision (f) continues former Section 12276(e) without substantive change.

See Section 30515 (further clarification of “assault weapon”).

Staff Note. If revised as shown above, proposed Section 30510 would refer to a firearm declared by a court to be an assault weapon “pursuant to former Section 12276.5, as it read in Section 3 of Chapter 19 of the Statutes of 1989, Section 1 of Chapter 874 of the Statutes of 1990, or Section 3 of Chapter 954 of the Statutes of 1991” (Emphasis added.) The staff chose those three versions of former Section 12276.5 because those are the only versions under which a court could declare a firearm to be an assault weapon.

If revised as shown above, proposed Section 30510 would also refer in two places to a firearm specified as an assault weapon in a list promulgated by the Attorney General “pursuant to former Section 12276.5, as it read in Section 3 of Chapter 954 of the Statutes of 1991.” (Emphasis added.) The staff chose this version of former Section 12276.5 because it was the only version under which the Attorney General was responsible for promulgating a list of assault weapons.

§ 30520. Duties of Attorney General

30520. (a) The Attorney General shall prepare a description for identification purposes, including a picture or diagram, of each assault weapon listed in Section 30510, and any firearm declared to be an assault weapon pursuant to **former Section 12276.5**, as it read in Section 3 of Chapter 19 of the Statutes of 1989, Section 1 of Chapter 874 of the Statutes of 1990, or Section 3 of Chapter 954 of the Statutes of 1991, and shall distribute the description to all law enforcement agencies responsible for enforcement of this chapter. Those law enforcement agencies shall make the description available to all agency personnel.

(b)(1) Until January 1, 2007, the Attorney General shall promulgate a list that specifies all firearms designated as assault weapons in **former Section 12276**, as it read in Section 2 of Chapter 954 of the Statutes of 1991, Section 134 of Chapter 427 of the Statutes of 1992, or Section 19 of Chapter 606 of the Statutes of 1993, or declared to be assault weapons pursuant to **former Section 12276.5**, as it read in Section 3 of Chapter 19 of the Statutes of 1989, Section 1 of Chapter 874 of the Statutes of 1990, or Section 3 of Chapter 954 of the Statutes of 1991. The Attorney General shall file that list with the Secretary of State for publication in the California Code of Regulations. Any declaration that a specified firearm is an assault weapon shall be implemented by the Attorney General who, within 90 days, shall promulgate an amended list which shall include the specified firearm declared to be an assault weapon. The Attorney General shall file the amended list with the Secretary of State for publication in the California Code of Regulations. Any firearm declared to be an assault weapon prior to January 1, 2007, shall remain on the list filed with the Secretary of State.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, pertaining to the adoption of rules and regulations, shall not apply to any list of assault weapons promulgated pursuant to this section.

(c) The Attorney General shall adopt those rules and regulations that may be necessary or proper to carry out the purposes and intent of this chapter.

Comment. Section 30520 continues former Section 12276.5 without substantive change. An incomplete cross-reference to a chapter in the Government Code has been corrected. See also

former Sections 12072(f)(1)(A) and 12282, which cross-referred to the definitional material in former Section 12276.5.

As originally enacted, former Section 12276.5 prescribed a procedure by which a court could classify a weapon as an assault weapon. See 1989 Cal. Stat. ch. 19, § 3. The provision was later amended to direct the Attorney General to promulgate a list of the weapons classified as assault weapons by a court or by former Section 12276 (which is continued in Section 30510). See 1991 Cal. Stat. ch. 954, § 3. Still later, the provision was amended to discontinue both of those procedures as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. This section continues former Section 12276.5 as so amended.

See Sections 16520 (“firearm”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

Staff Note. If revised as shown above, proposed Section 30520 would refer in two places to a firearm declared to be an assault weapon “pursuant to former Section 12276.5, *as it read in Section 3 of Chapter 19 of the Statutes of 1989, Section 1 of Chapter 874 of the Statutes of 1990, or Section 3 of Chapter 954 of the Statutes of 1991.*” (Emphasis added.) The staff chose those three versions of former Section 12276.5 because those are the only versions under which a court could declare a firearm to be an assault weapon.

If revised as shown above, proposed Section 30520 would also refer to promulgation of “a list that specifies all firearms designated as assault weapons in former Section 12276, *as it read in Section 2 of Chapter 954 of the Statutes of 1991, Section 134 of Chapter 427 of the Statutes of 1992, or Section 19 of Chapter 606 of the Statutes of 1993 ...*” (Emphasis added.) The staff chose those three versions of former Section 12276 because those are the versions that were in force during the time period when the Attorney General was responsible for promulgating a list of the firearms designated as assault weapons in Section 12276 — i.e., from January 1, 1992 (when 1991 Cal. Stat. ch. 954, § 3, became operative and thus the Attorney General’s duty commenced) to January 1, 2007 (the ending date specified in Section 12276.5 and proposed Section 30520).

§ 30620. Date that firearm becomes assault weapon

30620. As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(a) The effective date of an amendment to Section 30510 or to **former Section 12276** that adds the designation of the specified firearm.

(b) The effective date of the list promulgated pursuant to **former Section 12276.5** that 12276.5, as that section read in Section 3 of Chapter 954 of the Statutes of 1991, which adds or changes the designation of the specified firearm.

(c) January 1, 2000, which was the operative date of **former Section 12276.1**, as enacted by Section 7 of Chapter 129 of the Statutes of 1999.

Comment. Section 30620 continues former Section 12280(u) without substantive change.

Subdivision (a) refers to former Section 12276. That section is continued in Section 30510 (“assault weapon”), which is also referred to in subdivision (a).

Subdivision (b) refers to the list promulgated pursuant to former Section 12276.5. In the past, that section (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and, as amended in 1991, (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by Section 12276 or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

Subdivision (c) refers to the operative date of former Section 12276.1 (i.e., January 1, 2000). As subsequently amended to exempt certain weapons, that section is continued in Section 30515 (further clarification of “assault weapon”).

See Sections 16520 (“firearm”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”).

Staff Note. Subdivision (a) of proposed Section 30620 already makes clear which version of former Section 12276 is being referenced — i.e., “an amendment to ... former Section 12276 *that adds the designation of the specified firearm.*” (Emphasis added.) There is no need to provide further specificity. As shown above, subdivision (a) should be left as is.

If revised as shown above, subdivision (b) of Section 30620 would refer to “the list promulgated pursuant to former Section 12276.5, *as that section read in Section 3 of Chapter 954 of the Statutes of 1991 ...*” (Emphasis added.) The staff chose this version of former Section 12276.5 because it is the only version under which the Attorney General was responsible for promulgating a list of assault weapons.

If revised as shown above, subdivision (c) of Section 30620 would refer to “former Section 12276.1, *as enacted by Section 7 of Chapter 129 of the Statutes of 1999.*” (Emphasis added.) The staff chose this version of Section 12276.1 because it is the original version and it became operative on January 1, 2000, as specified in subdivision (c).

§ 30630. Exemptions for peace officers and members of federal law enforcement agencies

30630. (a) Sections 30605 and 30610 shall not prohibit the possession or use of assault weapons or a .50 BMG rifle by sworn peace officer members of those agencies specified in Section 30625 for law enforcement purposes, whether on or off duty.

(b)(1) Sections 30600, 30605, and 30610 shall not prohibit the sale, delivery, or transfer of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a sworn peace officer member of an agency specified in Section 30625 if the peace officer is authorized by the officer’s employer to possess or receive the assault weapon or the .50 BMG rifle. Required authorization is defined as verifiable written certification from the head of the agency, identifying the recipient or possessor of the assault weapon as a peace officer and authorizing that person to receive or possess the specific assault weapon.

(2) For this exemption to apply, in the case of a peace officer who possesses or receives the assault weapon prior to January 1, 2002, the officer shall register the assault weapon pursuant to ~~former Section 12285~~ on or before April 1, 2002, pursuant to former Section 12285, as it read at any time from when it was enacted by Section 3 of Chapter 19 of the Statutes of 1989, to and including when it was amended by Section 9 of Chapter 129 of the Statutes of 1999. In the case of a peace officer who possesses or receives the assault weapon on or after January 1, 2002, the officer shall, not later than 90 days after possession or receipt, register the assault weapon pursuant to ~~former Section 12285~~ or pursuant to Article 5 (commencing with Section 30900), not later than 90 days after possession or receipt or pursuant to former Section 12285, as it read at any time from when it was amended by Section 9 of Chapter 129 of the Statutes of 1999 to when it was repealed by the Deadly Weapons Recodification Act of 2012. In the case of a peace officer who possesses or receives a .50 BMG rifle on or before January 1, 2005, the officer shall register the .50 BMG rifle on or before April 30, 2006. In the case of a peace officer who possesses or receives a .50 BMG rifle after January

1, 2005, the officer shall register the .50 BMG rifle not later than one year after possession or receipt.

(3) With the registration, the peace officer shall include a copy of the authorization required pursuant to this subdivision.

(c) Nothing in this article shall be construed to limit or prohibit the sale, delivery, or transfer of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon or a .50 BMG rifle by, a member of a federal law enforcement agency provided that person is authorized by the employing agency to possess the assault weapon or .50 BMG rifle.

Comment. Subdivision (a) of Section 30630 continues former Section 12280(f)(1) without substantive change.

Subdivision (b) continues former Section 12280(f)(2) without substantive change. Subdivision (b) refers to the former Section 12285 that was enacted by 1989 Cal. Stat. ch. 19, § 3, amended several times, and then repealed by the Deadly Weapons Recodification Act. That provision is continued in Article 5 (Sections 30900-30965). Another Section 12285 was added by 1989 Cal. Stat. ch. 18, § 4, and repealed by 1989 Cal. Stat. ch. 19, § 2.5.

Subdivision (c) continues former Section 12280(f)(3) without substantive change.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

Staff Note. The first sentence of proposed Section 30630(b)(2) says that a peace officer who possesses or receives an assault weapon *prior to January 1, 2002*, shall register that weapon *on or before April 1, 2002*. If revised as shown above, that sentence would further say that the officer shall register the weapon “pursuant to former Section 12285, *as it read at any time from when it was enacted by Section 3 of Chapter 19 of the Statutes of 1989, to and including when it was amended by Section 9 of Chapter 129 of the Statutes of 1999.*” (Emphasis added.) The italicized language would encompass every version of Section 12285 from (1) when it was first enacted by 1989 Cal. Stat. ch. 19, § 3, and registration under it began, to (2) the registration deadline of April 2, 2002, when the applicable version of Section 12285 was 1999 Cal. Stat. ch. 129, § 9. The italicized language thus corresponds to the time period specified in the first sentence of proposed Section 30630(b)(2).

Similarly, the second sentence of proposed Section 30630(b)(2) says that a peace officer who possesses or receives an assault weapon *on or after January 1, 2002*, shall register the weapon not later than 90 days after possession or receipt. If revised as shown above, that sentence would further say that the officer shall register the weapon “pursuant to Article 5 (commencing with Section 30900) or pursuant to former Section 12285, *as it read at any time from when it was amended by Section 9 of Chapter 129 of the Statutes of 1999 to when it was repealed by the Deadly Weapons Recodification Act of 2012.*” (Emphasis added.) The italicized language would encompass every version of Section 12285 from (1) the start date of January 1, 2002, when the applicable version of Section 12285 was 1999 Cal. Stat. ch. 129, § 9, to (2) the date when Section 12285 is repealed and recodified as Article 5 (commencing with Section 30900) by the Commission’s proposed legislation. The italicized language, coupled with the reference to Article 5 (commencing with Section 30900), thus corresponds to the time period specified in the second sentence of Section 30630(b)(2) — i.e., “on or after January 1, 2002.”

§ 30635. Exemption applicable during period soon after weapon was classified as assault weapon

30635. Section 30605 shall not apply to the possession of an assault weapon during the 90-day period immediately after the date it was specified as an assault weapon pursuant to **former Section 12276.5**, as that section read in Section 3 of

Chapter 19 of the Statutes of 1989, Section 1 of Chapter 874 of the Statutes of 1990, or Section 3 of Chapter 954 of the Statutes of 1991, or during the one-year period after the date it was defined as an assault weapon pursuant to former Section 12276.1, as that section read at any time from when it was enacted by Section 7 of Chapter 129 of the Statutes of 1999 to when it was repealed by the Deadly Weapons Recodification Act of 2012, if all of the following are applicable:

(a) At the time of the possession in question, the person was eligible under the then-applicable version of former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4 to register the particular assault weapon.

(b) The person lawfully possessed the particular assault weapon prior to the date it was specified as an assault weapon pursuant to **former Section 12276.5**, or prior to the date it was defined as an assault weapon pursuant to **former Section 12276.1**.

(c) At the time of the possession in question, the person was otherwise in compliance with the then-applicable version of former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4.

Comment. Section 30635 continues former Section 12280(g) without substantive change.

The introductory clause and subdivision (b) refer to the date that a weapon “was specified as an assault weapon pursuant to *former Section 12276.5*.” (Emphasis added.) In the past, that section (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

The introductory clause and subdivision (b) also refer to the date that a weapon “was defined as an assault weapon pursuant to *former Section 12276.1*.” (Emphasis added.) That section became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of “assault weapon”).

Subdivisions (a) and (c) refer to former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290). That former chapter is continued in this chapter (Sections 30500-31115).

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

§ 30640. Exemption for possession of .50 BMG rifle, not classified as assault weapon, before May 1, 2006

30640. Section 30610 shall not apply to the possession of a .50 BMG rifle, which was not defined or specified as an assault weapon pursuant to the then-applicable version of the former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4 that was added to this code by Section 3 of Chapter 19 of the Statutes of 1989, by any person prior to May 1, 2006, if all of the following are applicable:

(a) At the time of the possession in question, the person was eligible under the then-applicable version of former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4 to register that .50 BMG rifle.

(b) The person lawfully possessed the .50 BMG rifle prior to January 1, 2005.

(c) At the time of the possession in question, the person was otherwise in compliance with the then-applicable version of former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4.

Comment. Section 30640 continues former Section 12280(s) without substantive change.

The introductory clause and subdivisions (a) and (c) refer to the former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290) that was added to this code by 1989 Cal. Stat. ch. 19, § 3. That former chapter is continued in this chapter (Sections 30500-31115). Another Chapter 2.3, also entitled “Roberti-Roos Assault Weapons Control Act of 1989,” was added by 1989 Cal. Stat. ch. 18, § 4, and repealed by 1989 Cal. Stat. ch. 19, § 2.5.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

§ 30715. Immunity and other relief relating to SKS rifles

30715. (a)(1) Any person who, or firm, company, or corporation that, operated a retail or other commercial firm, company, or corporation, and manufactured, distributed, transported, imported, possessed, possessed for sale, offered for sale, or transferred, for commercial purpose, an SKS rifle in California between January 1, 1992, and December 19, 1997, shall be immune from criminal prosecution under Article 2 (commencing with Section 30600) or **former Section 12280**.

(2) The immunity provided in this subdivision shall apply retroactively to any person who, or firm, company, or corporation that, is or was charged by complaint or indictment with a violation of **former Section 12280** for conduct related to an SKS rifle, whether or not the case of that person, firm, company, or corporation is final.

(b)(1) Any person who possessed, gave, loaned, or transferred an SKS rifle in California between January 1, 1992, and December 19, 1997, shall be immune from criminal prosecution under Article 2 (commencing with Section 30600) or **former Section 12280**.

(2) The immunity provided in this subdivision shall apply retroactively to any person who was charged by complaint or indictment with a violation of **former Section 12280** for conduct related to an SKS rifle, whether or not the case of that person is final.

(c) Any SKS rifle in the possession of any person who, or firm, company, or corporation that, is described in subdivision (a) or (b), shall not be subject to seizure by law enforcement for violation of Article 2 (commencing with Section 30600) or **former Section 12280** prior to January 1, 2000.

(d) Any person, firm, company, or corporation, convicted under **former Section 12280** for conduct relating to an SKS rifle, shall be permitted to withdraw a plea of guilty or nolo contendere, or to reopen the case and assert the immunities provided in this article, if the court determines that the allowance of the immunity is in the interests of justice. The court shall interpret this article liberally to the benefit of the defendant.

(e) For purposes of this section, “former Section 12280” refers to former Section 12280, as added by Section 3 of Chapter 19 of the Statutes of 1989 or as subsequently amended.

Comment. Section 30715 continues former Section 12281(a)-(d) without substantive change.

In a number of places, Section 30715 refers to “former Section 12280.” Subdivision (e) makes clear that these are references to former Section 12280, as added by 1989 Cal. Stat. ch. 19, § 3, or as subsequently amended. That provision is continued in Article 2 (Sections 30600-30675). Another Section 12280 was added by 1989 Cal. Stat. ch. 18, § 4, and repealed by 1989 Cal. Stat. ch. 19, § 2.5.

See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

§ 30720. Relinquishment or other disposal of SKS rifle

30720. (a) Any person, firm, company, or corporation that is in possession of an SKS rifle shall do one of the following on or before January 1, 2000:

(1) Relinquish the SKS rifle to the Department of Justice pursuant to **subdivision (h) of former Section 12281.**

(2) Relinquish the SKS rifle to a law enforcement agency pursuant to **former Section 12288,** as added by Section 3 of Chapter 19 of the Statutes of 1989.

(3) Dispose of the SKS rifle as permitted by **former Section 12285,** as it read in Section 20 of Chapter 23 of the Statutes of 1994.

(b) Any person who has obtained title to an SKS rifle by bequest or intestate succession shall be required to comply with paragraph (1) or (2) of subdivision (a) unless that person otherwise complies with **paragraph (1) of subdivision (b) of former Section 12285,** as it read in Section 20 of Chapter 23 of the Statutes of 1994, or as subsequently amended.

(c) Any SKS rifle relinquished to the department pursuant to this section shall be in a manner prescribed by the department.

Comment. Section 30720 continues former Section 12281(f)(1)-(3) without substantive change.

For the consequences of complying or failing to comply with this provision, see Section 30725.

Subdivision (a)(1) refers to former Section 12281(h), which is continued in Section 30730(a).

Subdivision (a)(2) refers to former Section 12288, ~~which~~ as it read from when former Section 12281 became operative (January 1, 1999) until the deadline for relinquishment or disposal of an SKS rifle (January 1, 2000). Former Section 12288, as subsequently amended, is continued in Section 31100 (relinquishment of assault weapon or .50 BMG rifle).

Subdivision (a)(3) refers to former Section 12285, ~~which~~ as it read from when former Section 12281 became operative (January 1, 1989) until the deadline for relinquishment or disposal of an SKS rifle (January 1, 2000). Former Section 12285, as subsequently amended, is continued in Article 5 (Sections 30900-30965).

Subdivision (b) refers to former Section ~~12285(b)(1).~~ That provision 12285(b)(1), as it read when former Section 12281 became operative on January 1, 1989, or thereafter. Former Section ~~12285(b)(1)~~ is continued in Sections 30910 (restriction on sale or transfer of assault weapon), 30915 (assault weapon obtained by bequest or intestate succession), and 30920 (firearm lawfully possessed before it was classified as “assault weapon”).

See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

☞ **Staff Note.** Section 12281 was added to the Penal Code by 1998 Cal. Stat. ch. 909, § 1. It has never been amended. Consequently, there is no question regarding which version of Section 12281 is referenced in proposed Section 30720(a)(1), and no need to include a citation to a specific version.

The proposed Comment explains how the staff decided which version of Section 12288 to use in proposed Section 30720(a)(2), which version of Section 12285 to use in proposed Section 30720(a)(3), and which versions of Section 12285(b)(1) to use in proposed Section 30720(b).

§ 30730. Purchase program for relinquished SKS rifles

30730. (a)(1) The department shall purchase any SKS rifle relinquished pursuant to Section 30720 from funds appropriated for this purpose by the act amending **former** Section 12281 in the 1997-98 Regular Session of the Legislature or by subsequent budget acts or other legislation.

(2) The department shall adopt regulations for this purchase program that include, but are not limited to, the manner of delivery, the reimbursement to be paid, and the manner in which persons shall be informed of the state purchase program.

(3) Any person who relinquished possession of an SKS rifle to a law enforcement agency pursuant to any version of former Section 12288 prior to the effective date of the purchase program set forth in paragraph (1) shall be eligible to be reimbursed from the purchase program. The procedures for reimbursement pursuant to this paragraph shall be part of the regulations adopted by the department pursuant to paragraph (2).

(b) In addition to the regulations required pursuant to subdivision (a), emergency regulations for the purchase program described in subdivision (a) shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Subdivision (a) of Section 30730 continues former Section 12281(h) without substantive change. Subdivision (a)(3) refers to former Section 12288. That provision is continued in Section 31100 (relinquishment of assault weapon or .50 BMG rifle).

Subdivision (b) continues former Section 12281(k) without substantive change.

See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

☞ **Staff Note.** Proposed Section 30730 would continue Section 12281(h), which refers to “the act amending this section in the 1997-98 Regular Session of the Legislature.” The staff finds that reference confusing, because there was no act *amending* Section 12281 in the 1997-98 Regular Session of the Legislature. In fact, Section 12281 was added by 1998 Cal. Stat. ch. 909, § 1.

We suspect that the reference to “the act amending this section in the 1997-98 Regular Session of the Legislature” could be deleted without effecting a substantive change. To be safe, however, that language would be preserved in proposed Section 30730 (except proposed Section 30730 would refer to “former Section 12281” instead of “this section”).

The Commission might want to add this matter to its list of “Minor Clean-Up Issues for Possible Future Legislative Attention” (Appendix B to its pre-print report). Arguably, however, the matter is already encompassed within Item #39 on that list, which concerns “whether the statutes relating to SKS rifles should be revised to delete, segregate, or otherwise modify outdated material.” The staff does not feel strongly about whether to add a new item to the Commission’s list, dealing specifically with Section 12281’s reference to “the act amending this section in the 1997-98 Regular Session of the Legislature.”

§ 30735. Duties of Department of Justice

30735. (a) The Department of Justice shall notify all district attorneys on or before January 31, 1999, of the provisions of **former Section 12281**.

(b) The department shall identify all criminal prosecutions in the state for conduct related to SKS rifles on or before April 1, 1999. In all cases so identified by the Attorney General, the district attorneys shall inform defense counsel, or the defendant if the defendant is in propria persona, in writing, of the provisions of **former Section 12281** on or before May 1, 1999.

(c) ~~The~~ Commencing no later than January 1, 1999, the department shall conduct a public education and notification program as described in Section 31115 or in former Section 12289, commencing no later than January 1, 1999, as added by Section 6 of Chapter 954 of the Statutes of 1991 or as subsequently amended.

Comment. Subdivisions (a) and (b) of Section 30735 continue former Section 12281(e) without substantive change. Both subdivisions refer to former Section 12281, which is continued in this article (Sections 30710-30735).

Subdivision (c) continues former Section 12281(f)(4) without substantive change. Subdivision (c) refers to former Section 12289, which is continued in Section 31115.

See Section 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

Staff Note. Section 12281 was added to the Penal Code by 1998 Cal. Stat. ch. 909, § 1. It has never been amended. Consequently, there is no question regarding which version of Section 12281 is referenced in proposed Section 30735(a) and (b), and no need to include a citation to a specific version.

If revised as shown above, proposed Section 30735(c) would refer to “former Section 12289, *as added by Section 6 of Chapter 954 of the Statutes of 1991 or as subsequently amended.*” (Emphasis added.) The italicized language would encompass the version of Section 12289 that was in effect on January 1, 1999, when the Department of Justice was required to commence its public education and notification program (i.e., 1991 Cal. Stat. ch. 954, § 6), and all subsequent versions of Section 12289.

§ 30900. Registration of assault weapon

30900. (a) Any person who, prior to June 1, 1989, lawfully possessed an assault weapon, as defined in **former Section 12276**, ~~prior to June 1, 1989~~ as added by Section 3 of Chapter 19 of the Statutes of 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to **former Section 12276.5**, as added by Section 3 of Chapter 19 of the Statutes of 1989 or as amended by Section 1 of Chapter 874 of the Statutes of 1990 or Section 3 of Chapter 954 of the Statutes of 1991, shall register the firearm within 90 days with the Department of Justice pursuant to those procedures that the department may establish.

(b) Except as provided in Section 30600, any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to **former Section 12276.1**, as it read in Section 7 of Chapter 129 of the Statutes of 1999, and which was not specified as an assault weapon under **former Section 12276 or 12276.5** 12276, as added by Section 3 of Chapter 19 of the Statutes of 1989 or as amended at any time before January 1, 2001, or former Section

12276.5, as added by Section 3 of Chapter 19 of the Statutes of 1989 or as amended at any time before January 1, 2001, shall register the firearm by January 1, 2001, with the department pursuant to those procedures that the department may establish.

(c) The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate.

(d) The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act. The fees shall be deposited into the Dealers' Record of Sale Special Account.

Comment. Section 30900 continues former Section 12285(a)(1) without substantive change.

Under subdivision (a), a person “who, prior to June 1, 1989, lawfully possesses possessed an assault weapon, *as defined in former Section 12276, prior to June 1, 1989*, ... shall register the firearm by January 1, 1991 ...” (Emphasis added.) For the text of former Section 12276 during this registration period, see 1989 Cal. Stat. ch. 19, § 3. The provision was subsequently amended on several occasions. See 1993 Cal. Stat. ch. 606, § 19; 1992 Cal. Stat. ch. 427, § 134; 1991 Cal. Stat. ch. 954, § 2. As so amended, former Section 12276 is continued in Section 30510 (“assault weapon”).

Subdivision (a) also refers to the date that a weapon “was specified as an assault weapon pursuant to former Section 12276.5.” (Emphasis added.) In the past, that section (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

Under subdivision (b), a person “who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to former Section 12276.1, ... and which was not specified as an assault weapon under former Section 12276-~~or, ... or former Section~~ 12276.5, ... shall register the firearm by January 1, 2001 ...” (Emphasis added.) Former Section 12276.1 was enacted as 1999 Cal. Stat. ch. 129, § 7, and became operative on January 1, 2000. That version of the statute remained in effect through the registration deadline of January 1, 2001. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of “assault weapon”).

See Sections 16520 (“firearm”), 16970 (“person”). See also Section 16010 (continuation of existing law).

§ 30905. Registration of .50 BMG rifle

30905. (a) Except as provided in Section 30600, any person who lawfully possesses any .50 BMG rifle prior to January 1, 2005, that is not specified as an assault weapon under **former Section 12276-~~or 12276.5~~**, as it reads in Section 19 of Chapter 606 of the Statutes of 1993, or former Section 12276.5, as it reads in Section 3 of Chapter 954 of the Statutes of 1991, or defined as an assault weapon pursuant to former Section 12276.1, as it reads in Section 3 of Chapter 911 of the

Statutes of 2002, shall register the .50 BMG rifle with the department no later than April 30, 2006, pursuant to those procedures that the department may establish.

(b) The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate.

(c) The department may charge a fee for registration of twenty-five dollars (\$25) per person to cover the actual processing and public education campaign costs of the department. The fees shall be deposited into the Dealers' Record of Sale Special Account. Data-processing costs associated with modifying the department's data system to accommodate .50 caliber BMG rifles shall not be paid from the Dealers' Record of Sale Special Account.

Comment. Section 30905 continues former Section 12285(a)(2) without substantive change.

Under subdivision (a), a person "who lawfully possesses any .50 BMG rifle prior to January 1, 2005, that is not specified as an assault weapon under *former Section 12276, ... or former Section 12276.5, ...* or defined as an assault weapon pursuant to *former Section 12276.1*, shall register the .50 BMG rifle with the department no later than April 30, 2006 ..." (Emphasis added.) For the text of former Section 12276 during this registration period, see 1993 Cal. Stat. ch. 606, § 19, which is continued in Section 30510 ("assault weapon"). For the text of former Section 12276.1 during this registration period, see 2002 Cal. Stat. ch. 911, § 3, which is continued in Section 30515 (further clarification of "assault weapon"). For the text of former Section 12276.5 during this registration period, see 1991 Cal. Stat. ch. 954, § 3. Former Section 12276.5 was subsequently amended. As so amended, it is continued in Section 30520 (duties of Attorney General).

See Sections 16520 ("firearm"), 16970 ("person"), 30530 (".50 BMG rifle"). See also Section 16010 (continuation of existing law).

§ 30920. Firearm lawfully possessed before it was classified as "assault weapon"

30920. (a) Any person who lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to **former Section 12276.5**, as it reads in Section 3 of Chapter 19 of the Statutes of 1989, Section 1 of Chapter 874 of the Statutes of 1990, or Section 3 of Chapter 954 of the Statutes of 1991, or subsequently defined as an assault weapon pursuant to **former Section 12276.1**, as that section read at any time from when it was enacted by Section 7 of Chapter 129 of the Statutes of 1999 to when it was repealed by the Deadly Weapons Recodification Act of 2012, shall, within 90 days, do one or more of the following:

- (1) Render the weapon permanently inoperable.
- (2) Sell the weapon to a licensed gun dealer.
- (3) Obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 32650) of Chapter 6.
- (4) Remove the weapon from this state.

(b) Notwithstanding subdivision (a), a person who lawfully possessed a firearm that was subsequently declared to be an assault weapon pursuant to **former Section 12276.5** may alternatively register the firearm within 90 days of the declaration issued pursuant to **subdivision (f) of former Section 12276.5**, as it

reads in Section 3 of Chapter 19 of the Statutes of 1989, Section 1 of Chapter 874 of the Statutes of 1990, or Section 3 of Chapter 954 of the Statutes of 1991.

Comment. In combination with Section 30915, subdivision (a) of Section 30920 continues the second sentence of former Section 12285(b)(1) without substantive change. Subdivision (b) continues the third sentence of former Section 12285(b)(1) without substantive change.

Subdivision (a) refers to former Section 12276.1. That section was enacted as 1999 Cal. Stat. ch. 129, § 7, and became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it was later amended to provide for certain exemptions. See 2000 Cal. Stat. ch. 967, § 3; 2002 Cal. Stat. ch. 911, § 3. It is continued in Section 30515 (further clarification of “assault weapon”).

Subdivisions (a) and (b) refer to former Section 12276.5, which (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

See Sections 16520 (“firearm”), 16790 (“licensed gun dealer”), 16970 (“person”). See also Section 16010 (continuation of existing law).

§ 30960. Forgiveness period

30960. (a) For 90 days following January 1, 1992, a forgiveness period shall exist to allow any person specified in subdivision (b) of **former Section 12280**, as it reads in Section 4.5 of Chapter 954 of the Statutes of 1991, to register with the Department of Justice any assault weapon that the person lawfully possessed prior to June 1, 1989.

(b)(1) Any person who registers an assault weapon during the 90-day forgiveness period described in subdivision (a), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of **subdivision (b) of former Section 12280**, as added by Section 3 of Chapter 19 of the Statutes of 1989 or as subsequently amended, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon.

(2) This section shall have no effect upon any person charged prior to January 1, 1992, with a violation of **subdivision (b) of former Section 12280** of the Penal Code prior to January 1, 1992 as added by Section 3 of Chapter 19 of the Statutes of 1989 or as subsequently amended, provided that law enforcement was aware of the violation before the weapon was registered.

Comment. Subdivision (a) of Section 30960 continues former Section 12285(f) without substantive change.

Subdivision (b) continues former Section 12285(h) without substantive change.

Subdivisions (a) and (b) refer to former Section 12280(b). That For the text of that provision during the forgiveness period, see 1991 Cal. Stat. ch. 954, § 4.5. As subsequently amended, the provision is continued in Section 30605 (unlawful possession of assault weapons).

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

§ 30965. Exception to registration requirement for weapon already registered on another basis

30965. (a) Any person who registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2000, where the assault weapon is thereafter defined as an assault weapon pursuant to Section 30515 or **former Section 12276.1**, as that section read at any time from when it was enacted by Section 7 of Chapter 129 of the Statutes of 1999 to when it was repealed by the Deadly Weapons Recodification Act of 2012, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this article.

(b) Any person who legally registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2005, where the assault weapon is thereafter defined as a .50 caliber BMG rifle pursuant to Section 30530 or **former Section 12278**, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this article.

Comment. Section 30965 continues former Section 12285(g) without substantive change.

Subdivision (a) refers to former Section 12276.1, which became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of “assault weapon”), which is also referred to in subdivision (a).

Subdivision (b) refers to a weapon “defined as a .50 BMG caliber rifle pursuant to ... former Section 12278.” Former Section 12278 was enacted as 2004 Cal. Stat. ch. 494, § 7, and never amended. The definition of “.50 BMG rifle” in former Section 12278 is continued in Section 30530 (“.50 BMG rifle”), which is also referred to in subdivision (b).

See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

Staff Note. Section 12278 was added to the Penal Code by 2004 Cal. Stat. ch. 494, § 7. It has never been amended. Consequently, there is no question regarding which version of Section 12278 is referenced in proposed Section 30965(b), and no need to include a citation to a specific version.

§ 31115. Public education and notification program

31115. (a) The Department of Justice shall conduct a public education and notification program regarding the registration of assault weapons and the definition of the weapons set forth in Section 30515 and **former Section 12276.1**, as it read at any time from when it was added by Section 7 of Chapter 129 of the Statutes of 1999 to when it was repealed by the Deadly Weapons Recodification Act of 2012.

(b) The public education and notification program shall include outreach to local law enforcement agencies and utilization of public service announcements in a variety of media approaches, to ensure maximum publicity of the limited forgiveness period of the registration requirement specified in subdivision (f) of **former Section 12285**, as that subdivision read in Section 5 of Chapter 954 of the Statutes of 1991, and the consequences of nonregistration. The department shall develop posters describing gunowners’ responsibilities under **former Chapter 2.3**

(commencing with Section 12275) of Title 2 of Part 4, as that chapter read when the forgiveness period commenced on January 1, 1992, which shall be posted in a conspicuous place in every licensed gun store in the state during the forgiveness period.

(c) For .50 BMG rifles, the department's education campaign shall provide materials to dealers of .50 BMG rifles, and to recognized national associations that specialize in .50 BMG rifles.

(d) Any costs incurred by the Department of Justice to implement this section, which cannot be absorbed by the department, shall be funded from the Dealers' Record of Sale Special Account, as set forth in Section ~~28220~~ **or subdivision (d) of former Section 12076** 28235, or former Section 12076 as it read at any time from when it was amended by Section 1.7 of Chapter 954 of the Statutes of 1991 to when it was repealed by Section 12 of Chapter 606 of the Statutes of 1993, or former Section 12076 as it read at any time from when it was enacted by Section 13 of Chapter 606 of the Statutes of 1993 to when it was repealed by the Deadly Weapons Recodification Act of 2012, upon appropriation by the Legislature.

Comment. Section 31115 continues former Section 12289 without substantive change.

Subdivision (a) refers to former Section 12276.1, which became operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further clarification of "assault weapon").

Subdivision (b) refers to former Section ~~12285(f)~~. That 12285(f), as it existed when the forgiveness period commenced on January 1, 1992. As subsequently amended, that provision is continued in Section 30960(a).

Subdivision (b) also refers to "former Chapter 2.3 (commencing with Section 12275) of Title 2 of Part 4." ~~Former 4~~, as that chapter read when the forgiveness period commenced on January 1, 1992. As subsequently amended, former Chapter 2.3 (former Sections 12275-12290) is continued in this chapter (except some definitions that are located in "Division 2. Definitions" of Title 1).

Subdivision (d) refers to ~~former Section 12076(d)~~. That provision is continued in Section 28220 the language in former Section 12076 relating to the Dealers' Record of Sale Special Account. That language was originally located in subdivision (d) of former Section 12076. See 1991 Cal. Stat. ch. 954, § 1.7. It was later relabeled as subdivision (f). See 1992 Cal. Stat. ch. 1326, § 8. Section 12076 was then repealed and replaced by a new Section 12076. Again, the language relating to the Dealers' Record of Sale Special Account was located in subdivision (f). See 1993 Cal. Stat. ch. 606, §§ 12, 13. It was later relabeled as subdivision (g) and remained so labeled until it was repealed by the Deadly Weapons Recodification Act of 2012. See 1997 Cal. Stat. ch. 462, § 6; 2008 Cal. Stat. ch. 698, § 18.

As originally enacted, former Section 12289 referred to "the Dealers' Record of Sale Special Account, as set forth in subdivision (d) of Section 12076." See 1991 Cal. Stat. ch. 954, §6 (emphasis added). The cross-reference to subdivision (d) was correct at that time, but it was never revised to reflect the subsequent relabeling of the language relating to the Dealers' Record of Sale Special Account. See 1999 Cal. Stat. ch. 129, § 11; 2004 Cal. Stat. ch. 494, § 14.

That problem is corrected in this section. Specifically, subdivision (d) does not cross-refer to Section 28220, which continues former Section 12076(d). Instead, subdivision (d) cross-refers to Section 28235, which continues the language from former Section 12076 relating to the Dealers' Record of Sale Special Account.

See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30530 (“.50 BMG rifle”). See also Section 16010 (continuation of existing law).

Staff Note. Existing Section 12289 refers to “the Dealers’ Record of Sale Special Account, as set forth in *subdivision (d)* of Section 12076.” (Emphasis added.) As detailed above, the quoted language was correct at one time, but is now incorrect due to relabeling of the language relating to the Dealers’ Record of Sale Special Account. The revisions shown above would fix the problem and explain the situation. The correction of this cross-reference should also be noted in Appendix A to the Commission’s report.

The staff is grateful to Byron Damiani for raising an issue that led the staff to uncover the incorrect cross-reference.

§ 31670. Operative date

31670. Except for the provisions of **former Section 12804, former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as added by Section 10 of Chapter 942 of the Statutes of 2001**, became operative on January 1, 2003.

Comment. Section 31670 continues former Section 12809 without substantive change.

Former Article 8 of Chapter 6 of Title 2 of Part 4, entitled “Handgun Safety Certificate.” consisted of former Sections 12800-12809. One provision in that article, former Section 12804, became operative on January 1, 2002. It is continued in Sections 31630, 31635, 31640, 31655(a), and 31665. The remainder of the article had a delayed operative date of January 1, 2003. Those provisions are continued in Sections 31610-31625, 31645-31650, 31655(b)-(c), 31660, and 31700.

CONFORMING REVISIONS THAT REFER TO FORMER LAW

Staff Note. Two of the conforming revisions in the Commission’s 6/24/09 pre-print report refer to a former law. The relevant parts of those conforming revisions are shown below. Strikeout and underscore indicate the changes to existing law that are proposed in the pre-print report. The references to former law are shown in boldface. Below each provision is a staff note explaining how the staff thinks the reference to former law should be treated.

Penal Code § 667.7 (amended). Punishment for habitual offenders

SEC. _____. Section 667.7 of the Penal Code is amended to read:

667.7. (a) Any person convicted of a felony in which the person inflicted great bodily injury as provided in Section 12022.53 or 12022.7, or personally used force which was likely to produce great bodily injury, who has served two or more prior separate prison terms as defined in Section 667.5 for the crime of ... kidnapping as punished in **former subdivision (d) of Section 208**, ... is a habitual offender

Staff Note. Subdivision (d) existed in only one version of Section 208 (1990 Cal. Stat. ch. 1560, § 1). Consequently, there is no question regarding which version of former Section 208(d) is referenced in Section 667.7, and no need to include a citation to a specific version. The conforming revision in the pre-print report should be left as is.

Penal Code § 11106 (amended). Retention of records

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

11106. ... (c)(1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082 and ~~former Section 12084~~ or any other law the following provisions, as to handguns and maintain a registry ~~thereof~~ thereof:

(A) Sections 26700 to 26915, inclusive.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) **Former Section 12084.**

(F) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular handgun as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in **former Section 12084**, or

Staff Note. Section 12084 was enacted by 1991 Cal. Stat. ch. 951, § 8.1. The same year, Section 11106 was amended to require the Attorney General to maintain records of handgun information collected pursuant to Section 12084. See 1991 Cal. Stat. ch. 951, § 1. Both of these reforms became operative on January 1, 1992.

The duty to maintain records of handgun information collected pursuant to Section 12084 continued to exist until Section 12084 was repealed in 2005. See 2003 Cal. Stat. ch. 541, § 1. It then became a duty to maintain records of handgun information collected pursuant to "former Section 12084." See 2005 Cal. Stat. ch. 702, § 2.

In this nonsubstantive study, the safest course would be to leave the references to "former Section 12084" intact, instead of trying to provide greater specificity. Judging from the preliminary input provided by Byron Damiani, that approach appears to be acceptable to the Office of Legislative Counsel.

If it turns out to be necessary to provide greater specificity, the staff recommends replacing the references to "former Section 12084" with references to "former Section 12084, *as it read at any time.*" That approach would properly reflect that the Attorney General's duty to maintain records of handgun information includes records collected pursuant to *any* version of Section 12084, from its enactment through its repeal.