

First Supplement to Memorandum 2013-53

Deadly Weapons: Minor Clean-Up Issues

As noted in Memorandum 2013-53,¹ there were a few pending bills that amended sections at issue in the draft recommendation. This supplement discusses those that were signed into law by the Governor. In addition, this supplement discusses two possible additions for the draft recommendation, both of which are minor changes that have been previously approved by the Legislature, but did not take effect for process reasons.

An attachment to this memorandum sets out excerpts of the draft recommendation modified to implement the changes recommended below.

Except as otherwise indicated, all statutory references in this memorandum are to the Penal Code.

2013 LEGISLATION

The staff searched for enactments that either directly amend the definition sections included in the draft recommendation or that add new uses of the terms defined in these sections. The staff found two bills that make such changes, AB 500 (Ammiano)² and AB 231 (Ting).³

In the staff's assessment, neither of these bills undermines the analysis supporting the proposed changes or otherwise conflicts with the spirit of the proposed changes. However, the draft recommendation will require some conforming revisions to reflect the updated language of the law.

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

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. 2013 Cal. Stat. ch. 737.

3. 2013 Cal. Stat. ch. 730.

Assembly Bill 500

“Firearm Safety Device” and “Locked Container”

AB 500 adds Section 25135, which uses the terms “firearm safety device” and “locked container” (as shown in italics below):⁴

(a) A person who is 18 years of age or older, and who is the owner, lessee, renter, or other legal occupant of a residence, who owns a firearm and who knows or has reason to know that another person also residing therein is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm shall not keep in that residence any firearm that he or she owns unless one of the following applies:

(1) The firearm is maintained within a *locked container*.

(2) The firearm is disabled by a *firearm safety device*.

(3) The firearm is maintained within a locked gun safe.

(4) The firearm is maintained within a locked trunk.

(5) The firearm is locked with a locking device as described in Section 16860, which has rendered the firearm inoperable.

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

(b) A violation of this section is a misdemeanor.

(c) The provisions of this section are cumulative, and do not restrict the application of any other law. However, an act or omission punishable in different ways by different provisions of law shall not be punished under more than one provision.⁵

In addition, AB 500 amends the provisions defining “firearm safety device”⁶ and “locked container”⁷ so that they govern Section 25135.⁸

As the draft recommendation proposes to expand the scope of these definitions to the entirety of Part 6, and new Section 25135 is located within Part 6, the Commission’s recommendation is substantively compatible with the effect of AB 500. **However, the draft recommendation needs to be revised so that the proposed amendments use the newly enacted language as a starting point.**⁹

4. 2013 Cal. Stat. ch. 737, § 7.

5. *Id.* (emphasis added).

6. Section 16540.

7. Section 16850.

8. 2013 Cal. Stat. ch. 737, §§ 3, 4.

9. See Attachment pp. 12-13. (The language added by AB 500 to Sections 16540 and 16850 is identified in italics).

“Application to Purchase”

AB 500 also adds Section 28255, which uses the defined term “application to purchase” (as shown in italics below):¹⁰

Commencing January 1, 2014, if after the conclusion of the waiting period described in Sections 26815 and 27540, the individual named in the application as the purchaser of the firearm takes possession of the firearm set forth in the *application to purchase*, the dealer shall notify the Department of Justice of that fact in a manner and within a time period specified by the department, and with sufficient information to identify the purchaser and the firearm that the purchaser took possession of.¹¹

However, the definition of “application to purchase” was not amended to cover the new use of this term.¹² Consequently, the definition of the term does not govern Section 28255.

This appears to be an oversight. New Section 28255 refers to Sections 26815 and 27540, which are both governed by the definition of “application to purchase.”¹³ These sections establish a timeframe after the “application to purchase” within which a dealer is prohibited from delivering the firearm (i.e., within 10 days of the application to purchase). It follows that the same “application to purchase” that initiated the waiting period described in Sections 26815 and 27540 is the application referenced in Section 28255 that names the purchaser and identifies the purchased firearm. In other words, Section 28255 is using the term “application to purchase” in its defined sense.

Further, the Commission concluded that it would be correct to amend the provision defining “application to purchase” so that it governs all of Part 6 after finding that all sections using the term are part of an integrated procedural scheme. Consequently, it appears that all of those sections are using the term with the same meaning, whether they are governed by the definition or not.¹⁴ New Section 28255 appears to be part of the same procedural scheme.

The Commission’s recommendation would make the definition of “application to purchase” applicable to all of Part 6, *which now includes Section 28255*. For the reasons discussed above, the staff believes that would be an

10. *Id.* § 9.

11. *Id.* (emphasis added).

12. *Id.*

13. § 16190.

14. Draft Recommendation attached to Memorandum 2013-53 at 2-3.

appropriate result. **The staff does not recommend any change to the proposed legislation on this point. However, the preliminary part of the draft recommendation needs to be revised to identify Section 28255 as one which the Commission has reviewed and determined is part of the integrated procedural scheme.**¹⁵

Assembly Bill 231

AB 231 (Ting) amends Section 26835, which presents form language for warnings that licensed gun dealers are required to post within their premises.¹⁶ The form language in Section 26835 previously included references to a “locked container,” but AB 231 adds a new use of the term.¹⁷ AB 231’s amendments to the warning language in Section 26835 are shown in underline and strikeout below:

(a) “IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(b) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(c) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

15. See Attachment p. 4, n. 8. (Section 28255 is now included in the list of sections containing undefined uses of “application to purchase” that were reviewed by the Commission).

16. 2013 Cal. Stat. ch. 730, § 3.

17. *Id.*

(d) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO ONE THOUSAND DOLLARS (\$1,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

~~(d)~~(e) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

~~(e)~~(f) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

~~(f)~~(g) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."¹⁸

Section 26835 is not covered by the current definition of "locked container."¹⁹ The draft recommendation notes that "Section 26835 includes the term 'locked container' in form language for warnings that licensed gun dealers are required to post within their premises. However, as form language, this section describes existing law and does not proscribe rules for 'locked containers.'"²⁰

The amendment made by AB 231 does not change that analysis; the revised form language is still just describing the law, not creating new substantive rules. **As such, the staff concludes that it is still appropriate to expand the express**

18. 2013 Cal. Stat. ch. 730, § 3.

19. Section 16850.

20. Draft Recommendation attached to Memorandum 2013-53 at 4, n. 18.

scope of the definition of “locked container” to cover the whole of Part 6. No conforming revisions of the draft recommendation are required.

POSSIBLE ADDITIONS OF MINOR CHANGES
PREVIOUSLY APPROVED BY THE LEGISLATURE

There are two minor revisions that the Commission might want to add to the draft recommendation. Both are revisions that were included in recent legislation, appeared to be uncontroversial, but ultimately did not take effect (for process reasons unrelated to their merits). They are discussed more fully below.

Nonsubstantive Revisions to Improve Clarity and Readability

In 2011, the Commission recommended revising Section 11106 to improve its clarity and readability. Legislation to implement the Commission’s recommendation was enacted into law, but the changes to Section 11106 were chaptered out and did not take effect.²¹ **The staff recommends that the proposed revisions to Section 11106 be added to the draft recommendation for reintroduction.**²²

Cross-Reference Correction

In 2013, legislative staff discovered an apparent cross-reference error in Section 17190, a provision that was added as part of the Commission’s recommendation to recodify the deadly weapon provisions of the Penal Code.²³ The Commission’s staff confirmed that the reference was erroneous and should be deleted. Language to make that change was added to a pending weapons bill, SB 567 (Jackson). That bill was approved by the Legislature but was vetoed for reasons unrelated to the cross-reference correction.²⁴ To the best of the staff’s knowledge, the cross-reference correction is completely non-controversial. **The staff recommends that the proposed revisions to Section 17190 be added to the draft recommendation for reintroduction.**²⁵

21. See 2011 Cal. Stat. ch. 285, § 23 (AB 1402 (Committee on Public Safety)).

22. Attachment pp. 9-12. (Note - the proposed legislation for Section 11106 incorporates legislative changes from intervening years, but is otherwise identical to the Commission’s previous recommendation); see also *id.* at 4-5 (description of revision for preliminary part).

23. *Nonsubstantive Reorganization of Deadly Weapon Statutes*, 38 Cal. L. Revision Comm’n Reports 217 (2009).

24. Governor’s Veto Message for SB 567 (Oct. 11, 2013), available at <gov.ca.gov/docs/SB_567_2013_Veto_Message.pdf>

25. Attachment p. 13; see also *id.* at 5 (description of revision for preliminary part).

COMMISSION DECISION ON DRAFT RECOMMENDATION

The staff recommends that the Commission **approve the draft recommendation as a final recommendation, with the changes discussed above, for submission to the Legislature and printing in the Commission's official reports.**

Respectfully submitted,

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SUMMARY OF RECOMMENDATION

In June 2009, the Commission completed a recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes*. The Legislature implemented the recommendation through its enactment of Chapters 178 and 711 of the Statutes of 2010. This legislation became operative on January 1, 2012.

Throughout its deadly weapons study, the Commission took extreme care to avoid making any substantive change. In the course of the study, the Commission identified a number of minor problems that could not be addressed without potentially causing concern about the possibility of such a change. These clean-up issues were not addressed in the June 2009 recommendation, but were instead identified and set aside for future work.

This recommendation proposes amendments to address a handful of the minor clean-up issues. Specifically, the revisions contained in this recommendation address:

- (1) Expansion of the scope of certain definitions to cover the entirety of Part 6 of the Penal Code.
- (2) Standardizing references to certain organizations and persons.

This recommendation also includes two other minor technical revisions that were previously approved by the Legislature, but did not take effect for process reasons.

This recommendation was prepared pursuant to Section 7 of Chapter 711 of the Statutes of 2010 and Government Code Section 8298.

DEADLY WEAPONS: MINOR CLEAN-UP ISSUES

1 In 2006, the Legislature directed the Law Revision Commission to conduct a
2 study and recommend nonsubstantive changes to the statutes relating to control of
3 deadly weapons to simplify and provide better organization to this area of law.¹
4 The Commission was expressly directed not to make any change that would affect
5 the existing scope of criminal liability.²

6 In June 2009, the Commission submitted its recommendation on *Nonsubstantive*
7 *Reorganization of Deadly Weapons Statutes* (“Deadly Weapons
8 Recommendation”)³ to the Legislature. In 2010, the recommendation was enacted,
9 reorganizing the deadly weapons statutes into a new Part 6 of the Penal Code,⁴
10 structuring the provisions in a more user-friendly form and making conforming
11 revisions to the law.⁵

12 Throughout its deadly weapons study, the Commission took an extremely
13 cautious approach, to avoid making any substantive change. During the course of
14 the study, the Commission found a number of minor issues that could not be
15 addressed without potentially causing concern about the possibility of such a
16 change. Consistent with the Commission’s limited mandate, the Commission did
17 not address any of these minor issues in its Deadly Weapons Recommendation.

18 Instead, these minor issues were listed in Appendix B of the Deadly Weapons
19 Recommendation and set aside for possible future work. In the Deadly Weapons
20 Recommendation, the Commission requested authority to study these clean-up
21 issues.

22 The Legislature granted the Commission authority to study and make
23 recommendations on the issues identified in Appendix B.⁶ Pursuant to that
24 authority, the Law Revision Commission now recommends minor clean-up
25 amendments to address some of the issues identified in Appendix B of the Deadly
26 Weapons Recommendation.

27 This recommendation also proposes two other minor technical revisions that
28 were not included in Appendix B. These minor revisions are proposed pursuant to
29 the Commission’s authority in Government Code Section 8298.

30 ...

1. ACR 73 (McCarthy), 2006 Cal. Stat. res. ch. 128.

2. *Id.*

3. *Nonsubstantive Reorganization of Deadly Weapon Statutes*, 38 Cal. L. Revision Comm’n Reports 217 (2009).

4. All references contained herein are to the Penal Code unless otherwise noted.

5. SB 1080 (Committee on Public Safety), 2010 Cal. Stat. ch. 711; SB 1115 (Committee on Public Safety), 2010 Cal. Stat. ch. 178.

6. 2010 Cal. Stat. ch. 711, § 7 (SB 1080 (Committee on Public Safety)).

1 chaptered out and did not take effect.¹⁰ The proposed law includes revisions
2 equivalent to those recommended in 2011.

3 **Cross-Reference Correction**

4 Penal Code Section 17190 contains an erroneous cross-reference to a repealed
5 provision. In 2013, an amendment to correct the error was included in Senate Bill
6 567 (Jackson). That bill was approved by the Legislature but was vetoed for
7 reasons unrelated to the cross-reference correction.¹¹ The proposed law would
8 delete the erroneous cross-reference.

10. See 2011 Cal. Stat. ch. 285, § 23 (AB 1402 (Committee on Public Safety)).

11. Governor's Veto Message for SB 567 (Oct. 11, 2013).

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PROPOSED LEGISLATION

1 ...

2 **Penal Code § 11106 (amended). Retention of records**

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

4 11106. (a)(1) In order to assist in the investigation of crime, the prosecution of
5 civil actions by city attorneys pursuant to paragraph (3) of subdivision (b), the
6 arrest and prosecution of criminals, and the recovery of lost, stolen, or found
7 property, the Attorney General shall keep and properly file a complete record of
8 ~~all copies of fingerprints, copies of licenses to carry firearms issued pursuant to~~
9 ~~Section 26150, 26155, 26170, or 26215, information reported to the Department of~~
10 ~~Justice pursuant to Section 26225 or 29830, dealers' records of sales of firearms,~~
11 ~~reports provided pursuant to Article 1 (commencing with Section 27500) of~~
12 ~~Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in~~
13 ~~subdivision (a) of Section 16585, forms provided pursuant to Section 12084, as~~
14 ~~that section read prior to being repealed, reports provided pursuant to Article 1~~
15 ~~(commencing with Section 26700) and Article 2 (commencing with Section~~
16 ~~26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records~~
17 ~~of sales of firearms, information provided pursuant to Section 28255, and reports~~
18 ~~of stolen, lost, found, pledged, or pawned property in any city or county of this~~
19 ~~state, and all of the following:~~

20 (A) All copies of fingerprints.

21 (B) Copies of licenses to carry firearms issued pursuant to Section 26150,
22 26155, 26170, or 26215.

23 (C) Information reported to the Department of Justice pursuant to Section 26225
24 or 29830.

25 (D) Dealers' records of sales of firearms.

26 (E) Reports provided pursuant to Article 1 (commencing with Section 27500) of
27 Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in
28 subdivision (a) of Section 16585.

29 (F) Forms provided pursuant to Section 12084, as that section read prior to being
30 repealed on January 1, 2006.

31 (G) Reports provided pursuant to Article 1 (commencing with Section 26700)
32 and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of
33 Title 4 of Part 6, that are not dealers' records of sales of firearms.

34 (H) Information provided pursuant to Section 28255.

35 (I) Reports of stolen, lost, found, pledged, or pawned property in any city or
36 county of this state.

37 (2) The Attorney General shall, upon proper application therefor, furnish ~~this~~ the
38 information kept pursuant to subdivision (a) to the officers referred to in Section
39 11105.

1 (b)(1) The Attorney General shall permanently keep and properly file and
2 maintain all information reported to the Department of Justice pursuant to the
3 following provisions as to firearms and maintain a registry thereof:

4 (A) Article 1 (commencing with Section 26700) and Article 2 (commencing
5 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

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

8 (C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part
9 6.

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

11 (E) Former Section 12084.

12 (F) Section 28255.

13 (G) Any other law.

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

15 (A) The name, address, identification of, place of birth (state or country),
16 complete telephone number, occupation, sex, description, and all legal names and
17 aliases ever used by the owner or person being loaned the particular firearm as
18 listed on the information provided to the department on the Dealers' Record of
19 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former
20 Section 12084, or reports made to the department pursuant to any provision listed
21 in subdivision (a) of Section 16585, Section 28255, or any other law.

22 (B) The name and address of, and other information about, any person (whether
23 a dealer or a private party) from whom the owner acquired or the person being
24 loaned the particular firearm and when the firearm was acquired or loaned as listed
25 on the information provided to the department on the Dealers' Record of Sale, the
26 LEFT, or reports made to the department pursuant to any provision listed in
27 subdivision (a) of Section 16585 or any other law.

28 (C) Any waiting period exemption applicable to the transaction which resulted
29 in the owner of or the person being loaned the particular firearm acquiring or
30 being loaned that firearm.

31 (D) The manufacturer's name if stamped on the firearm, model name or number
32 if stamped on the firearm, and, if applicable, the serial number, other number (if
33 more than one serial number is stamped on the firearm), caliber, type of firearm, if
34 the firearm is new or used, barrel length, and color of the firearm, or, if the firearm
35 is not a handgun and does not have a serial number or any identification number or
36 mark assigned to it, that shall be noted.

37 (3) Information in the registry referred to in this subdivision shall, upon proper
38 application therefor, be furnished to the officers referred to in Section 11105, to a
39 city attorney prosecuting a civil action, solely for use in prosecuting that civil
40 action and not for any other purpose, or to the person listed in the registry as the
41 owner or person who is listed as being loaned the particular firearm.

42 (4) If any person is listed in the registry as the owner of a firearm through a
43 Dealers' Record of Sale prior to 1979, and the person listed in the registry requests

1 by letter that the Attorney General store and keep the record electronically, as well
2 as in the record's existing photographic, photostatic, or nonerasable optically
3 stored form, the Attorney General shall do so within three working days of receipt
4 of the request. The Attorney General shall, in writing, and as soon as practicable,
5 notify the person requesting electronic storage of the record that the request has
6 been honored as required by this paragraph.

7 (c)(1) ~~Any~~ If the conditions specified in paragraph (2) are met, any officer
8 referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105
9 may disseminate the name of the subject of the record, the number of the firearms
10 listed in the record, and the description of any firearm, including the make, model,
11 and caliber, from the record relating to any firearm's sale, transfer, registration, or
12 license record, or any information reported to the Department of Justice pursuant
13 to Section 26225, Article 1 (commencing with Section 26700) and Article 2
14 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6,
15 Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4
16 of Part 6, Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of
17 Part 6, Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of
18 Title 4 of Part 6, Article 5 (commencing with Section 30900) of Chapter 2 of
19 Division 10 of Title 4 of Part 6, Chapter 2 (commencing with Section 33850) of
20 Division 11 of Title 4 of Part 6, or any provision listed in subdivision (a) of
21 Section 16585, if the following conditions are met: any of the following:

22 (A) Section 26225.

23 (B) Article 1 (commencing with Section 26700) and Article 2 (commencing
24 with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

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

27 (D) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part
28 6.

29 (E) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of
30 Title 4 of Part 6.

31 (F) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of
32 Title 4 of Part 6.

33 (G) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of
34 Part 6.

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

36 (2) Information may be disseminated pursuant to paragraph (1) only if all of the
37 following conditions are satisfied:

38 (A) The subject of the record has been arraigned for a crime in which the victim
39 is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the
40 Family Code and is being prosecuted or is serving a sentence for the crime, or the
41 subject of the record is the subject of an emergency protective order, a temporary
42 restraining order, or an order after hearing, which is in effect and has been issued

1 by a family court under the Domestic Violence Protection Act set forth in Division
2 10 (commencing with Section 6200) of the Family Code.

3 (B) The information is disseminated only to the victim of the crime or to the
4 person who has obtained the emergency protective order, the temporary
5 restraining order, or the order after hearing issued by the family court.

6 (C) Whenever a law enforcement officer disseminates the information
7 authorized by this subdivision, that officer or another officer assigned to the case
8 shall immediately provide the victim of the crime with a “Victims of Domestic
9 Violence” card, as specified in subparagraph (H) of paragraph (9) of subdivision
10 (c) of Section 13701.

11 ~~(2)~~ (3) The victim or person to whom information is disseminated pursuant to
12 this subdivision may disclose it as he or she deems necessary to protect himself or
13 herself or another person from bodily harm by the person who is the subject of the
14 record.

15 **Comment.** Section 11106 is amended to improve clarity and readability. This is not a
16 substantive change.

17 **Note.** The proposed amendment to Section 11106 incorporates revisions made by 2013 Cal.
18 Stat. ch. 739, § 1.3 (AB 539 (Pan)), which will become operative on January 1, 2014. See Cal.
19 Const. art. IV, § 8(c)(1); Gov’t Code § 9600(a).

20 ...

21 **Penal Code § 16540 (amended). “Firearm safety device”**

22 SEC. _____. Section 16540 of the Penal Code is amended to read:

23 16540. As used in ~~Section 25135 and Division 2 (commencing with Section~~
24 ~~23620) of Title 4 this part~~, “firearm safety device” means a device other than a gun
25 safe that locks and is designed to prevent children and unauthorized users from
26 firing a firearm. The device may be installed on a firearm, be incorporated into the
27 design of the firearm, or prevent access to the firearm.

28 **Comment.** Section 16540 is amended to expressly apply the definition of “firearm safety
29 device” to the whole of Part 6. This amendment does not effect a substantive change because all
30 of the provisions in Part 6 that use the term “firearm safety device” use it with the meaning
31 provided in this section. See, e.g., Sections 26850, 26853, 26856, 26859, and 26915.

32 **Note.** The proposed amendment to Section 16540 incorporates a revision made by 2013 Cal.
33 Stat. ch. 737, § 3 (AB 500 (Ammiano)), which will become operative on January 1, 2014. See
34 Cal. Const. art. IV, § 8(c)(1); Gov’t Code § 9600(a).

35 **Penal Code § 16850 (amended). “Locked container”**

36 SEC. _____. Section 16850 of the Penal Code is amended to read:

37 16850. As used in ~~Sections 17740, 23925, 25105, 25135, 25205, and 25610, in~~
38 ~~Article 3 (commencing with Section 25505) of Chapter 2 of Division 5 of Title 4,~~
39 ~~in Chapter 6 (commencing with Section 26350) of Division 5 of Title 4, and in~~
40 ~~Chapter 7 (commencing with Section 26400) of Division 5 of Title 4 this part~~,
41 “locked container” means a secure container that is fully enclosed and locked by a

1 padlock, keylock, combination lock, or similar locking device. The term “locked
2 container” does not include the utility or glove compartment of a motor vehicle.

3 **Comment.** Section 16850 is amended to expressly apply the definition of “locked container” to
4 the whole of Part 6. This amendment does not effect a substantive change because all of the
5 provisions in Part 6 that use the term “locked container” use it with the meaning provided in this
6 section. See, e.g., Sections 26815, 27540, and 27560.

7 **Note.** The proposed amendment to Section 16850 incorporates a revision made by 2013 Cal.
8 Stat. ch. 737, § 4 (AB 500 (Ammiano)), which will become operative on January 1, 2014. See
9 Cal. Const. art. IV, § 8(c)(1); Gov’t Code § 9600(a).

10 ...

11 **Penal Code § 17190 (amended). “Shotgun”**

12 SEC. __. Section 17190 of the Penal Code is amended to read:

13 17190. As used in Sections 16530, 16640, 16870, and 17180, Sections 17720 to
14 17730, inclusive, Section 17740, ~~subdivision (f) of Section 27555~~, Section 30215,
15 and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of
16 Title 4, “shotgun” means a weapon designed or redesigned, made or remade, and
17 intended to be fired from the shoulder and designed or redesigned and made or
18 remade to use the energy of the explosive in a fixed shotgun shell to fire through a
19 smooth bore either a number of projectiles (ball shot) or a single projectile for
20 each pull of the trigger.

21 **Comment.** Section 17190 is amended to delete an erroneous cross-reference.

22 ...