

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Nonsubstantive Reorganization of Deadly Weapon Statutes: Clean-Up Legislation

February 2011

California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, CA 94303-4739
www.clrc.ca.gov

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

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STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

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February 10, 2011

To: The Honorable Edmund G. Brown, Jr.
Governor of California, and
The Legislature of California

In 2010, the Legislature enacted legislation to reorganize the statutes governing control of deadly weapons in a user-friendly manner in a new Part 6 of the Penal Code, without changing their substantive effect. That legislation was recommended by the Law Revision Commission, and is scheduled to become operative on January 1, 2012.

Before the statutory reorganization becomes operative, a clean-up bill should be enacted, to accomplish the following:

- Implement conforming revisions that were chaptered out by other bills.
- Effectuate minor statutory revisions that were chaptered out by the bill consisting of conforming revisions for the deadly weapons reorganization.
- Address certain deviations from the language recommended by the Commission.
- Conform a provision that was not included in last year's legislation because it required further study.
- Conform some new cross-references that were added to the codes in 2010.

- Make certain technical revisions requested by the Office of Legislative Counsel.

Enactment of such clean-up legislation will help to prevent confusion and ease the transition to the new statutory scheme.

This recommendation was prepared pursuant to Resolution Chapter 128 of the Statutes of 2006.

Respectfully submitted,

Associate Justice
John Zebrowski (Ret.)
Chairperson

NONSUBSTANTIVE REORGANIZATION OF DEADLY WEAPON STATUTES: CLEAN-UP LEGISLATION

In 2006, the Legislature enacted a resolution directing the Law Revision Commission to conduct a study and recommend means of simplifying and reorganizing the statutes relating to control of deadly weapons, without changing their substantive effect.¹ The Commission timely submitted its report on this matter in mid-2009.²

Two bills to implement the Commission's recommendation were enacted in 2010:

- Senate Bill 1080 (Committee on Public Safety),³ which contained the main proposal reorganizing the deadly weapon statutes in a user-friendly manner in a new Part 6 of the Penal Code.
- Senate Bill 1115 (Committee on Public Safety),⁴ which contained the conforming revisions.⁵

Both bills have a delayed operative date of January 1, 2012, to give persons and organizations time to adjust to the new statutory scheme before it takes effect.⁶

The delayed operative date also affords an opportunity to accomplish certain statutory clean-up before the new statutory

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

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

3. 2010 Cal. Stat. ch. 711.

4. 2010 Cal. Stat. ch. 178.

5. In other words, this bill amended numerous statutes that cross-referred to one or more of the deadly weapons provisions being relocated. The bill updated those cross-references to reflect the relocation.

6. See 2010 Cal. Stat. ch. 178, § 107 (operative date is Jan. 1, 2012, except for Sections 7 and 9 of bill); 2010 Cal. Stat. ch. 711, § 10 (operative date is Jan. 1, 2012, contingent on enactment and operation of SB 1080).

scheme takes effect. In particular, the Commission recommends clean-up legislation to address the matters described below.

Conforming Revisions Chaptered Out by Other Bills

When two bills would amend the same code section in different ways, the bills conflict. If both bills are enacted in the same year, one of the amendments will become law and the other will be “chaptered out” (i.e., nullified).⁷ This problem can be avoided through carefully drafted bill coordination amendments, but preparation of such amendments is complicated, time-consuming, and difficult when a bill affects numerous code sections and thus involves numerous bill conflicts.⁸

In such a situation, another means of addressing the problem is to include a subordination clause, which provides that if the bill conflicts with another bill, the other bill will prevail.⁹ This type of approach is appropriate when the revisions made by a bill are relatively minor, such as spelling or grammatical corrections, conforming revisions, or other technical changes. The subordination clause ensures that these minor revisions do not nullify more significant revisions made by other bills. If a minor revision is chaptered out due to the subordination clause, the problem can be corrected by reintroducing the minor revision in another bill the following year.

That approach was taken in Senate Bill 1115, which contained the conforming revisions for the nonsubstantive reorganization of the deadly weapon statutes.¹⁰ Due to the subordination clause in

7. See Gov’t Code § 9605.

8. See, e.g., SB 1080 (Committee on Public Safety), 2010 Cal. Stat. ch. 711, §§ 6.01-6.103, 8.01-8.103; SB 2139 (Lockyer), 1998 Cal. Stat. ch. 931, §§ 21.5, 53.5, 54.5, 62.5, 83.5, 143.5, 183.5, 201.5, 203.5, 227.5, 236.5, 315.5, 316.5, 365.5, 366.5, 388.5, 393.3, 393.4, 393.5, 395.5, 399.5, 405.5, 406.5, 424.5, 457.5, 481-506.

9. See, e.g., SB 1062 (Strickland), 2010 Cal. Stat. ch. 709, § 28; SB 1115 (Committee on Public Safety), 2010 Cal. Stat. ch. 178, § 108; SB 1330 (Committee on Judiciary), 2010 Cal. Stat. ch. 328, § 266.

10. See 2010 Cal. Stat. ch. 178, § 108.

that bill, 15 of its 106 conforming revisions were chaptered out by other bills.¹¹ Those conforming revisions should be reintroduced this year, so that they are properly implemented before the nonsubstantive reorganization becomes operative.¹²

11. The following amendments in Senate Bill 1115 were chaptered out:

- (1) Code Civ. Proc. § 527.6. Chaptered out by AB 1596 (Hayashi), 2010 Cal. Stat. ch. 572, § 1.
- (2) Code Civ. Proc. § 527.8. Chaptered out by AB 1596 (Hayashi), 2010 Cal. Stat. ch. 572, § 2.
- (3) Code Civ. Proc. § 527.85. Chaptered out by AB 1596 (Hayashi), 2010 Cal. Stat. ch. 572, § 4.
- (4) Code Civ. Proc. § 527.9. Chaptered out by AB 1596 (Hayashi), 2010 Cal. Stat. ch. 572, § 5.
- (5) Fam. Code § 6389. Chaptered out by AB 1596 (Hayashi), 2010 Cal. Stat. ch. 572, § 23.
- (6) Gov't Code § 6254. Chaptered out by AB 1887 (Villines), 2010 Cal. Stat. ch. 32, § 1.
- (7) Penal Code § 166. Chaptered out by AB 2632 (Davis), 2010 Cal. Stat. ch. 677, § 1.
- (8) Penal Code § 171c. Chaptered out by AB 2668 (Galgiani), 2010 Cal. Stat. ch. 689, §§ 1, 2.
- (9) Penal Code § 186.22 (as added by 2009 Cal. Stat. ch. 171, § 2). Chaptered out by AB 2263 (Yamada), 2010 Cal. Stat. ch. 256, § 2.
- (10) Penal Code § 629.52. Chaptered out by SB 1428 (Pavley), 2010 Cal. Stat. ch. 707, § 3.
- (11) Penal Code § 1203.4a. Chaptered out by AB 2582 (Adams), 2010 Cal. Stat. ch. 99, § 1.
- (12) Penal Code § 2962. Chaptered out by AB 1844 (Fletcher), 2010 Cal. Stat. ch. 219, § 18.
- (13) Penal Code § 11105. Chaptered out by SB 1417 (Cox), 2010 Cal. Stat. ch. 652, § 13.
- (14) Welf. & Inst. Code § 8103. Chaptered out by AB 302 (Beall), 2010 Cal. Stat. ch. 344, § 1.
- (15) Welf. & Inst. Code § 15657.03. Chaptered out by AB 1596 (Hayashi), 2010 Cal. Stat. ch. 572, § 26.

12. See the proposed amendments to the following provisions *infra*: Code Civ. Proc. §§ 527.6, 527.8, 527.85, 527.9; Fam. Code § 6389; Gov't Code § 6254; Penal Code §§ 166, 171c, 186.22, 629.52, 1203.4a, 2962, 11105; Welf. & Inst. Code §§ 8103, 15657.03.

Minor Revisions Chaptered Out by Senate Bill 1115

Senate Bill 1115 conflicted with two bills that also contained a subordination clause. As a result, three statutory revisions made by those other bills were chaptered out, because the subordination clause in Senate Bill 1115 was not as comprehensive as the subordination clauses in those bills.¹³ Those statutory revisions should be reintroduced, so that the Legislature's intent in enacting them can be effectuated.¹⁴

Conforming Revisions That Were Not Incorporated Into Senate Bill 1115 in the Manner Recommended by the Commission

A few of the conforming revisions recommended by the Commission were not incorporated into Senate Bill 1115 in precisely the manner recommended. To avoid the expense of amending such a lengthy bill, these problems were not addressed in the legislative process. They should be fixed before the nonsubstantive reorganization becomes operative.¹⁵

Conforming Revision That Was Not Included in the Commission's Report Because It Required Further Study

The Commission did not include a conforming revision of Education Code Section 49330 in its report, because the proper

13. Compare 2010 Cal. Stat. ch. 178, § 108 (bill is subordinate, but not to "annual maintenance of the codes bill or another bill with a subordination clause"), with 2010 Cal. Stat. ch. 709, § 28 (bill is subordinate, but not to annual maintenance of the codes bill (SB 1330)), and 2010 Cal. Stat. ch. 328, § 266 (bill is subordinate to all other bills).

14. See the proposed amendments to Penal Code §§ 273.6, 626.10, and 1203.4 *infra*.

15. See the proposed amendments to Gov't Code § 53071.5 and Penal Code §§ 626.95, 2933.5, 11105.03, and 11106 *infra*. The proposed amendment to Penal Code Section 11106 is not identical to the one originally recommended by the Commission. Instead, it includes additional revisions to improve the readability of the statute.

manner of conforming that provision was complicated. Instead, the Commission noted the matter for further study.¹⁶

Having since studied the matter more closely, the Commission has drawn conclusions about how the provision should be amended.¹⁷ To prevent confusion, this amendment should be made before the nonsubstantive reorganization becomes operative.

Conforming Revisions to Adjust Cross-References That Were Added to the Codes in 2010

In 2010, some cross-references to deadly weapons material being reorganized were added to the codes.¹⁸ Those cross-references need to be adjusted to reflect the reorganization. The Commission has prepared the necessary conforming revisions, which should be enacted before the reorganization becomes operative.¹⁹

Technical Revisions Requested by the Office of Legislative Counsel

While the bills to implement the deadly weapons reorganization were pending, the Office of Legislative Counsel requested permission to make certain technical revisions. Permission to make a few of those revisions was withheld on the ground that it would be preferable to address the matter in a clean-up bill than to include it in the reorganization proposal without first providing ample opportunity for input on the point. Now that the reorganization

16. See *Nonsubstantive Reorganization of Deadly Weapon Statutes*, 38 Cal. L. Revision Comm'n Reports 217, 280 (Item # 96) (2009); see also Commission Staff Memorandum 2009-28, pp. 2-4 (June 3, 2009).

17. See the proposed amendment to Educ. Code § 49330 *infra*.

18. See Penal Code Section 171c, 2010 Cal. Stat. ch. 689, § 2, which cross-refers to Penal Code Sections 653k, 12020, 12021, 12021.1, 12027(a), and 12316, and to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code. See also Penal Code Section 171.7, 2010 Cal. Stat. ch. 675, § 1, which cross-refers to Penal Code Sections 12001, 12001.1, 12025, 12027(a), and 12027, and to Chapter 4 (commencing with Section 12401) of Title 2 of Part 4 of the Penal Code.

19. See the proposed amendments to Penal Code §§ 171c and 171.7 *infra*.

proposal has been enacted, those technical revisions should be made, along with the other clean-up revisions recommended above.²⁰

20. See the proposed amendments to Penal Code §§ 12003, 23505, 25105, and 29510 *infra*.

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PROPOSED LEGISLATION

Code Civ. Proc. § 527.6, as it reads in 2010 Cal. Stat. ch. 572, § 1 (amended). Temporary restraining order and injunction prohibiting harassment

SEC. _____. Section 527.6 of the Code of Civil Procedure, as it reads in Section 1 of Chapter 572 of the Statutes of 2010, is amended to read:

527.6. (a)(1) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as provided in this section.

(2) A minor, under 12 years of age, accompanied by a duly appointed and acting guardian ad litem, shall be permitted to appear in court without counsel for the limited purpose of requesting or opposing a request for a temporary restraining order or injunction, or both, under this section as provided in Section 374.

(b) For the purposes of this section:

(1) "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, fax, or computer e-mail. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Credible threat of violence" is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) "Harassment" is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer

substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.

(4) “Petitioner” means the person to be protected by the temporary restraining order and injunction and, if the court grants the petition, the protected person.

(5) “Respondent” means the person against whom the temporary restraining order and injunction are sought and, if the petition is granted, the restrained person.

(6) “Temporary restraining order” and “injunction” mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls, as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the petitioner.

(B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).

(7) “Unlawful violence” is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(c) In the discretion of the court, on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members.

(d) Upon filing a petition for an injunction under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the restraining orders described in paragraph (6) of subdivision (b). A temporary restraining order may be issued with or without notice, based on a declaration that, to the satisfaction of the court, shows reasonable proof of harassment of the petitioner

by the respondent, and that great or irreparable harm would result to the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) A temporary restraining order issued under this section shall remain in effect, at the court's discretion, for a period not to exceed 21 days, or, if the court extends the time for hearing under subdivision (g), not to exceed 25 days, unless otherwise modified or terminated by the court.

(g) Within 21 days, or, if good cause appears to the court, 25 days from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition for the injunction. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(h) The respondent may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-petition under this section.

(i) At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment.

(j)(1) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, for a duration of not more than three years, without a showing of any further harassment since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be

brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(k) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.

(l) In a proceeding under this section if there are allegations of unlawful violence or credible threats of violence, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of violence. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges he or she is a victim of violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of violence and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(m) Upon the filing of a petition for an injunction under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(n) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to three years.

(o)(1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(p)(1) If a respondent, named in a restraining order issued after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with this temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the restraining order will be served on you by mail at the following address: _____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at

the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

(q)(1) Information on any temporary restraining order or injunction relating to civil harassment issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to a law enforcement agency having jurisdiction over the residence of the petitioner and to any additional law enforcement agencies within the court’s discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported harassment involving the parties to the proceeding. The petitioner shall provide

the officer with an endorsed copy of the order and a proof of service that the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of harassment that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of ~~Section~~ Sections 273.6 and subdivision (g) of Section 12021 29825 of the Penal Code.

(r) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(s) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(t)(1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(u) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. This section does not preclude a petitioner from using other existing civil remedies.

(v)(1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(2) A temporary restraining order or injunction relating to civil harassment issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(w) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, or stalked the petitioner, or acted or spoken in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

(x)(1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall be no fee for the service of process by a sheriff or marshal of a protective order, restraining order, or injunction to be issued, if either of the following conditions apply:

(A) The protective order, restraining order, or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B) The protective order, restraining order, or injunction issued pursuant to this section is based upon unlawful violence or a credible threat of violence.

(2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

Comment. Paragraphs (q)(7) and (t)(3) of Section 527.6 (as it reads in 2010 Cal. Stat. ch. 572, § 1) are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Paragraph (u) is amended to correct an incomplete cross-reference.

Code Civ. Proc. § 527.8, as it reads in 2010 Cal. Stat. ch. 572, § 2 (amended). Temporary restraining order and injunction on behalf of employee

SEC. _____. Section 527.8 of the Code of Civil Procedure, as it reads in Section 2 of Chapter 572 of the Statutes of 2010, is amended to read:

527.8. (a) Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee and, at the discretion of the court, any number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.

(b) For the purposes of this section:

(1) “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(2) “Credible threat of violence” is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) “Employer” and “employee” mean persons defined in Section 350 of the Labor Code. “Employer” also includes a federal

agency, the state, a state agency, a city, county, or district, and a private, public, or quasi-public corporation, or any public agency thereof or therein. "Employee" also includes the members of boards of directors of private, public, and quasi-public corporations and elected and appointed public officers. For purposes of this section only, "employee" also includes a volunteer or independent contractor who performs services for the employer at the employer's worksite.

(4) "Petitioner" means the employer that petitions under subdivision (a) for a temporary restraining order and injunction.

(5) "Respondent" means the person against whom the temporary restraining order and injunction are sought and, if the petition is granted, the restrained person.

(6) "Temporary restraining order" and "injunction" mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the employee.

(B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).

(7) "Unlawful violence" is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(c) This section does not permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) In the discretion of the court, on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members, or other persons employed at the employee's workplace or workplaces.

(e) Upon filing a petition for an injunction under this section, the petitioner may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the petitioner also files a declaration that, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the respondent, and that great or irreparable harm would result to an employee. The temporary restraining order may include any of the protective orders described in paragraph (6) of subdivision (b).

(f) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(g) A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 21 days, or if the court extends the time for hearing under subdivision (h), not to exceed 25 days, unless otherwise modified or terminated by the court.

(h) Within 21 days, or if good cause appears to the court, 25 days from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition for the injunction. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(i) The respondent may file a response that explains, excuses, justifies, or denies the alleged unlawful violence or credible threats of violence.

(j) At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. Moreover, if the respondent is a current employee of the entity requesting the injunction, the judge shall receive evidence concerning the employer's decision to retain, terminate, or otherwise discipline the respondent. If the judge finds by clear and convincing evidence that the respondent engaged in unlawful violence or made a

credible threat of violence, an injunction shall issue prohibiting further unlawful violence or threats of violence.

(k)(1) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, for a duration of not more than three years, without a showing of any further violence or threats of violence since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(l) This section does not preclude either party from representation by private counsel or from appearing on his or her own behalf.

(m) Upon filing of a petition for an injunction under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(n) A notice of hearing under this section shall notify the respondent that, if he or she does not attend the hearing, the court may make orders against him or her that could last up to three years.

(o)(1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(p)(1) If a respondent, named in a restraining order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the person does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the person by first-class mail sent to that person at the most current address for the person available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with this temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address: _____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

(q)(1) Information on any temporary restraining order or injunction relating to workplace violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement agency having jurisdiction over the residence of the petitioner and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

(5) At the request of the petitioner, an order issued under this section shall be served on the respondent, regardless of whether the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported unlawful violence or a credible threat of violence involving the parties to the proceedings. The petitioner shall provide the officer with an endorsed copy of the order and proof of service that the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of unlawful violence or a credible threat of violence that a protective order has been issued under this section, or that a person who has

been taken into custody is the subject of an order, if the petitioner or the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and obtain the respondent's address. The law enforcement officer shall at that time also enforce the order, but may not arrest or take the respondent into custody for acts in violation of the order that were committed prior to the verbal notice of the terms and conditions of the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and constitutes sufficient notice for the purposes of this section, and for the purposes of ~~Section~~ Sections 273.6 and ~~subdivision (g) of Section~~ 12021 29825 of the Penal Code. The petitioner shall mail an endorsed copy of the order to the respondent's mailing address provided to the law enforcement officer within one business day of the reported incident of unlawful violence or a credible threat of violence at which a verbal notice of the terms of the order was provided by a law enforcement officer.

(r)(1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(s) Any intentional disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(t) Nothing in this section may be construed as expanding, diminishing, altering, or modifying the duty, if any, of an employer to provide a safe workplace for employees and other persons.

(u)(1) The Judicial Council shall develop forms, instructions, and rules for relating to matters governed by this section. The forms for the petition and response shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(2) A temporary restraining order or injunction relating to unlawful violence or a credible threat of violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(v) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against an employee of the petitioner, or stalked the employee, or acted or spoken in any other manner that has placed the employee in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

(w)(1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall be no fee for the service of process by a sheriff or marshal of a temporary restraining order or injunction to be issued pursuant to this section if either of the following conditions apply:

(A) The temporary restraining order or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B) The temporary restraining order or injunction issued pursuant to this section is based on unlawful violence or a credible threat of violence.

(2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

Comment. Paragraphs (q)(7) and (r)(3) of Section 527.8 (as it reads in 2010 Cal. Stat. ch. 572, § 2) are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Code Civ. Proc. § 527.85, as it reads in 2010 Cal. Stat. ch. 572, § 4 (amended). Temporary restraining order and injunction on behalf of student at postsecondary educational institution

SEC. _____. Section 527.85 of the Code of Civil Procedure, as it reads in Section 4 of Chapter 572 of the Statutes of 2010, is amended to read:

527.85. (a) Any chief administrative officer of a postsecondary educational institution, or an officer or employee designated by the chief administrative officer to maintain order on the school campus or facility, a student of which has suffered a credible threat of violence made off the school campus or facility from any individual, which can reasonably be construed to be carried out or to have been carried out at the school campus or facility, may, with the written consent of the student, seek a temporary restraining order and an injunction, on behalf of the student and, at the discretion of the court, any number of other students at the campus or facility who are similarly situated.

(b) For the purposes of this section, the following definitions shall apply:

(1) “Chief administrative officer” means the principal, president, or highest ranking official of the postsecondary educational institution.

(2) “Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including any of the following:

(A) Following or stalking a student to or from school.

(B) Entering the school campus or facility.

(C) Following a student during school hours.

(D) Making telephone calls to a student.

(E) Sending correspondence to a student by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(3) “Credible threat of violence” means a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(4) “Petitioner” means the chief administrative officer, or his or her designee, who petitions under subdivision (a) for a temporary restraining order and injunction.

(5) “Postsecondary educational institution” means a private institution of vocational, professional, or postsecondary education.

(6) “Respondent” means the person against whom the temporary restraining order and injunction are sought and, if the petition is granted, the restrained person.

(7) “Student” means an adult currently enrolled in or applying for admission to a postsecondary educational institution.

(8) “Temporary restraining order” and “injunction” mean orders that include any of the following restraining orders, whether issued ex parte, or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the student.

(B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).

(9) “Unlawful violence” means any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(c) This section does not permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities

that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) In the discretion of the court, on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members of the student, or other students at the campus or facility.

(e) Upon filing a petition for an injunction under this section, the petitioner may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the petitioner also files a declaration that, to the satisfaction of the court, shows reasonable proof that a student has suffered a credible threat of violence made off the school campus or facility by the respondent, and that great or irreparable harm would result to the student. The temporary restraining order may include any of the protective orders described in paragraph (8) of subdivision (b).

(f) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(g) A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 21 days, or if the court extends the time for hearing under subdivision (h), not to exceed 25 days, unless otherwise modified or terminated by the court.

(h) Within 21 days, or if good cause appears to the court, within 25 days, from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition for the injunction. If no request for temporary orders is made, the hearing shall be held within 21 days, or if good cause appears to the court, 25 days, from the date the petition is filed.

(i) The respondent may file a response that explains, excuses, justifies, or denies the alleged credible threats of violence.

(j) At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. Moreover, if the

respondent is a current student of the entity requesting the injunction, the judge shall receive evidence concerning the decision of the postsecondary educational institution decision to retain, terminate, or otherwise discipline the respondent. If the judge finds by clear and convincing evidence that the respondent made a credible threat of violence off the school campus or facility, an injunction shall be issued prohibiting further threats of violence.

(k)(1) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, for a duration of not more than three years, without a showing of any further violence or threats of violence since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(l) This section does not preclude either party from representation by private counsel or from appearing on his or her own behalf.

(m) Upon filing of a petition for an injunction under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(n) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to three years.

(o)(1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(p)(1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to that person at the most current address for the respondent available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address:_____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at

the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

(q)(1) Information on any temporary restraining order or injunction relating to school site violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, or termination of the order, and any proof of service, was made, to each law enforcement agency having jurisdiction over the residence of the petition and to any additional law enforcement agencies within the court’s discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order of proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

(5) At the request of the petitioner, an order issued under this section shall be served on the respondent, regardless of whether the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported unlawful violence or a credible threat of violence involving the parties to the

proceedings. The petitioner shall provide the officer with an endorsed copy of the order and proof of service that the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of unlawful violence or a credible threat of violence that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the petitioner or the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and obtain the respondent's address. The law enforcement officer shall at that time also enforce the order, but may not arrest or take the respondent into custody for acts in violation of the order that were committed prior to the verbal notice of the terms and conditions of the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and constitutes sufficient notice for the purposes of this section, and ~~Section~~ Sections 273.6 and subdivision (g) of Section 12021.29825 of the Penal Code. The petitioner shall mail an endorsed copy of the order to the respondent's mailing address provided to the law enforcement officer within one business day of the reported incident of unlawful violence or a credible threat of violence at which a verbal notice of the terms of the order was provided by a law enforcement officer.

(r)(1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while the

protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(s) Any intentional disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(t) Nothing in this section may be construed as expanding, diminishing, altering, or modifying the duty, if any, of a postsecondary educational institution to provide a safe environment for students and other persons.

(u)(1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The forms for the petition and response shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(2) A temporary restraining order or injunction relating to unlawful violence or a credible threat of violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(v) There is no filing fee for a petition that alleges that a person has threatened violence against a student of the petitioner, or stalked the student, or acted or spoken in any other manner that has placed the student in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

(w)(1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall be no fee for the service of process by a sheriff or marshal of a temporary restraining order or injunction to be issued pursuant to this section if either of the following conditions apply:

(A) The temporary restraining order or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B) The temporary restraining order or injunction issued pursuant to this section is based upon a credible threat of violence.

(2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

Comment. Paragraphs (q)(7) and (r)(3) of Section 527.85 (as it reads in 2010 Cal. Stat. ch. 572, § 4) are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Code Civ. Proc. § 527.9, as it reads in 2010 Cal. Stat. ch. 572, § 5
(amended). Relinquishment of firearms by order or injunction**

SEC. _____. Section 527.9 of the Code of Civil Procedure, as it reads in Section 5 of Chapter 572 of the Statutes of 2010, is amended to read:

527.9. (a) A person subject to a temporary restraining order or injunction issued pursuant to Section 527.6, 527.8, or 527.85 or subject to a restraining order issued pursuant to Section 136.2 of the Penal Code, or Section 15657.03 of the Welfare and Institutions Code, shall relinquish the firearm pursuant to this section.

(b) Upon the issuance of a protective order against a person pursuant to subdivision (a), the court shall order that person to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control, within 24 hours of being served with the order, either by surrendering the firearm to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in ~~Section 12071~~ Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal Code. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court a receipt showing the firearm was surrendered to the local law enforcement agency or sold to a licensed gun dealer within 48 hours after receiving the order. In the event that it is

necessary to continue the date of any hearing due to a request for a relinquishment order pursuant to this section, the court shall ensure that all applicable protective orders described in Section 6218 of the Family Code remain in effect or bifurcate the issues and grant the permanent restraining order pending the date of the hearing.

(c) A local law enforcement agency may charge the person subject to the order or injunction a fee for the storage of any firearm relinquished pursuant to this section. The fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, “actual cost” means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section ~~12074~~ 26700 of the Penal Code or to the person relinquishing the firearm.

(d) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (b) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent’s right under existing law to petition the court at a later date for modification of the order.

(e) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (b) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections ~~12021 and 12021.1~~ Chapter 2 (commencing with Section

29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is issued against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section ~~12071~~ 26700 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(f) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(g) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law

enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

Comment. Subdivisions (b), (c), and (e) of Section 527.9 (as it reads in 2010 Cal. Stat. ch. 572, § 5) are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Educ. Code § 49330 (amended). “Injurious object” defined

SEC. _____. Section 49330 of the Education Code is amended to read:

49330. (a) As used in this article “injurious object” shall mean those objects specified in ~~Sections 653k, 12001, 12020, 12220, 12401, and 12402 of the Penal Code, and~~ the following sections:

(1) Section 16250 of the Penal Code.

(2) Subdivisions (a) to (d), inclusive, of Section 16520 of the Penal Code.

(3) Section 16590 of the Penal Code.

(4) Section 16880 of the Penal Code.

(5) Section 17235 of the Penal Code.

(6) Section 17240 of the Penal Code.

(7) Section 17250 of the Penal Code.

(b) As used in this article, “injurious object” shall also mean objects capable of inflicting substantial bodily damage, not necessary for the academic purpose of the pupil.

(c) As used in this section, “academic purpose” means any school sponsored activity or class of instruction scheduled during the schoolday.

(d) “Injurious object” does not include any personal possessions or items of apparel which a schoolage child reasonably may be expected either to have in his or her possession or to wear.

Comment. Section 49330 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

An erroneous cross-reference to Penal Code Section 12220 has been corrected by replacing it with a cross-reference to Penal Code Section

16880, which continues the definition of “machinegun” formerly found in Penal Code Section 12200.

The section is also amended to insert subdivision labels.

**Fam. Code § 6389, as it reads in 2010 Cal. Stat. ch. 572, § 23
(amended). Effect of protective order on ownership, possession,
purchase, and receipt of firearm**

SEC. _____. Section 6389 of the Family Code, as it reads in Section 23 of Chapter 572 of the Statutes of 2010, is amended to read:

6389. (a) A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm or ammunition while that protective order is in effect. Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(b) On all forms providing notice that a protective order has been requested or granted, the Judicial Council shall include a notice that, upon service of the order, the respondent shall be ordered to relinquish possession or control of any firearms and not to purchase or receive or attempt to purchase or receive any firearms for a period not to exceed the duration of the restraining order.

(c)(1) Upon issuance of a protective order, as defined in Section 6218, the court shall order the respondent to relinquish any firearm in the respondent’s immediate possession or control or subject to the respondent’s immediate possession or control.

(2) The relinquishment ordered pursuant to paragraph (1) shall occur by immediately surrendering the firearm in a safe manner, upon request of any law enforcement officer, to the control of the officer, after being served with the protective order. Alternatively, if no request is made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm in a safe manner to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in ~~Section 12074~~ Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6

of the Penal Code. The law enforcement officer or licensed gun dealer taking possession of the firearm pursuant to this subdivision shall issue a receipt to the person relinquishing the firearm at the time of relinquishment. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court that issued the protective order, within 48 hours after being served with the order, the receipt showing the firearm was surrendered to a local law enforcement agency or sold to a licensed gun dealer. Failure to timely file a receipt shall constitute a violation of the protective order.

(3) The forms for protective orders adopted by the Judicial Council and approved by the Department of Justice shall require the petitioner to describe the number, types, and locations of any firearms presently known by the petitioner to be possessed or controlled by the respondent.

(4) It is recommended that every law enforcement agency in the state develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms.

(d) If the respondent declines to relinquish possession of any firearm based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of any firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, “actual cost” means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section ~~42074~~ 26700 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or

receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent's right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 Chapter 2 (commencing with Section 29800) and Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is issued against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071 26700 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is

granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of ~~subdivision (d) of Section 12072~~ Section 27545 of the Penal Code.

(l) If the respondent notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

(m) Any respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

Comment. Subdivisions (a), (c), (g), (k), and (m) of Section 6389 (as it reads in 2010 Cal. Stat. ch. 572, § 23) are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Gov't Code § 6254 (amended). Records not required to be disclosed

SEC. _____. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or

market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the California Emergency Management Agency, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the

successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the

disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5

(commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u)(1) Information contained in applications for licenses to carry firearms issued pursuant to Section ~~42050~~ 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section ~~42050~~ 26150, 26155, 26170, or 26215 of the Penal Code

by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section ~~42050~~ 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v)(1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), and Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2)(A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract

or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w)(1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y)(1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with

Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2)(A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions,

recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision ~~(e)~~ (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Emergency Management Agency for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5)(A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6)(A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7)(A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) Nothing in this paragraph is intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, "fully executed" means the point in time when all of the necessary parties to the contract have signed the contract.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

Comment. Subdivision (u) of Section 6254 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Subdivision (z) is amended to correct a cross-reference. Subdivision (z) was added to Section 6254 by 1998 Cal. Stat. ch. 110, § 1. Subdivision (z) has not been changed since that time, but the provision cross-referenced in it (Pub. Util. Code § 2891.1) has been repeatedly amended. The material that used to be in paragraph (c)(2) of that provision has been relocated to paragraph (f)(2) of that provision. The cross-reference in subdivision (z) of Section 6254 is now updated to reflect that relocation.

**Gov't Code § 53071.5, as it reads in 2010 Cal. Stat. ch. 178, § 35
(amended). Imitation firearms**

SEC. _____. Section 53071.5 of the Government Code, as it reads in Section 35 of Chapter 178 of the Statutes of 2010, is amended to read:

53071.5. By the enforcement of this section, the Legislature occupies the whole field of regulation of the manufacture, sale, or possession of imitation firearms, as defined in subdivision (a) of Section 16700 of the Penal Code, and that ~~section~~ subdivision shall preempt and be exclusive of all regulations relating to the manufacture, sale, or possession of imitation firearms, including regulations governing the manufacture, sale, or possession of BB devices and air rifles described in Section 16250 of the Penal Code.

Comment. Section 53071.5 (as it reads in 2010 Cal. Stat. ch. 178, § 35) is amended to conform to the language recommended in *Nonsubstantive Reorganization of Deadly Weapon Statutes*, 38 Cal. L. Revision Comm'n Reports 217, 1088 (2009), which was drafted so as to continue preexisting law without substantive change.

Penal Code § 166 (amended). Contempt of court

SEC. _____. Section 166 of the Penal Code is amended to read:

166. (a) Except as provided in subdivisions (b), (c), and (d), every person guilty of any contempt of court, of any of the following kinds, is guilty of a misdemeanor:

(1) Disorderly, contemptuous, or insolent behavior committed during the sitting of any court of justice, in the immediate view and presence of the court, and directly tending to interrupt its proceedings or to impair the respect due to its authority.

(2) Behavior as specified in paragraph (1) committed in the presence of any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any jury while actually sitting for the trial of a cause, or upon any inquest or other proceedings authorized by law.

(3) Any breach of the peace, noise, or other disturbance directly tending to interrupt the proceedings of any court.

(4) Willful disobedience of the terms as written of any process or court order or out-of-state court order, lawfully issued by any court, including orders pending trial.

(5) Resistance willfully offered by any person to the lawful order or process of any court.

(6) The contumacious and unlawful refusal of any person to be sworn as a witness or, when so sworn, the like refusal to answer any material question.

(7) The publication of a false or grossly inaccurate report of the proceedings of any court.

(8) Presenting to any court having power to pass sentence upon any prisoner under conviction, or to any member of the court, any affidavit or testimony or representation of any kind, verbal or written, in aggravation or mitigation of the punishment to be imposed upon the prisoner, except as provided in this code.

(9) Willful disobedience of the terms of any injunction that restrains the activities of a criminal street gang or any of its members, lawfully issued by any court, including an order pending trial.

(b)(1) Any person who is guilty of contempt of court under paragraph (4) of subdivision (a) by willfully contacting a victim by telephone or mail, or directly, and who has been previously convicted of a violation of Section 646.9 shall be punished by

imprisonment in a county jail for not more than one year, by a fine of five thousand dollars (\$5,000), or by both that fine and imprisonment.

(2) For the purposes of sentencing under this subdivision, each contact shall constitute a separate violation of this subdivision.

(3) The present incarceration of a person who makes contact with a victim in violation of paragraph (1) is not a defense to a violation of this subdivision.

(c)(1) Notwithstanding paragraph (4) of subdivision (a), any willful and knowing violation of any protective order or stay-away court order issued pursuant to Section 136.2, in a pending criminal proceeding involving domestic violence, as defined in Section 13700, or issued as a condition of probation after a conviction in a criminal proceeding involving domestic violence, as defined in Section 13700, or elder or dependent adult abuse, as defined in Section 368, or that is an order described in paragraph (3), shall constitute contempt of court, a misdemeanor, punishable by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) If a violation of paragraph (1) results in a physical injury, the person shall be imprisoned in a county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended.

(3) Paragraphs (1) and (2) apply to the following court orders:

(A) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(B) An order excluding one party from the family dwelling or from the dwelling of the other.

(C) An order enjoining a party from specified behavior that the court determined was necessary to effectuate the orders described in paragraph (1).

(4) A second or subsequent conviction for a violation of any order described in paragraph (1) occurring within seven years of a prior conviction for a violation of any of those orders and involving an act of violence or “a credible threat” of violence, as provided in subdivisions (c) and (d) of Section 139, is punishable

by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months or two or three years.

(5) The prosecuting agency of each county shall have the primary responsibility for the enforcement of the orders described in paragraph (1).

(d)(1) A person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Section 527.6 or 527.8 of the Code of Civil Procedure, shall be punished under the provisions of ~~subdivision (g) of Section 12021~~ Section 29825.

(2) A person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (h) of Section 6389 of the Family Code.

(e)(1) If probation is granted upon conviction of a violation of subdivision (c), the court shall impose probation consistent with Section 1203.097 of the Penal Code.

(2) If probation is granted upon conviction of a violation of subdivision (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars (\$1,000).

(B) That the defendant provide restitution to reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(3) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision or subdivision (c), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support.

(4) If the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of subdivision

(c), the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents required by this subdivision, until all separate property of the offending spouse is exhausted.

(5) Any person violating any order described in subdivision (c) may be punished for any substantive offenses described under Section 136.1 or 646.9. No finding of contempt shall be a bar to prosecution for a violation of Section 136.1 or 646.9. However, any person held in contempt for a violation of subdivision (c) shall be entitled to credit for any punishment imposed as a result of that violation against any sentence imposed upon conviction of an offense described in Section 136.1 or 646.9. Any conviction or acquittal for any substantive offense under Section 136.1 or 646.9 shall be a bar to a subsequent punishment for contempt arising out of the same act.

Comment. Subdivision (d) of Section 166 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Penal Code § 171c (amended). Punishment for bringing or possessing loaded firearm within State Capitol and other specified locations

SEC. _____. Section 171c of the Penal Code is amended to read:

171c. (a)(1) Any person who brings a loaded firearm into, or possesses a loaded firearm within, the State Capitol, any legislative office, any office of the Governor or other constitutional officer, or any hearing room in which any committee of the Senate or Assembly is conducting a hearing, or upon the grounds of the State Capitol, which is bounded by 10th, L, 15th, and N Streets in the City of Sacramento, shall be punished by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both such imprisonment and fine, or by imprisonment in the state prison.

(2) Any person who brings or possesses, within the State Capitol, any legislative office, any hearing room in which any committee of the Senate or Assembly is conducting a hearing, the Legislative Office Building at 1020 N Street in the City of Sacramento, or upon the grounds of the State Capitol, which is bounded by 10th, L, 15th, and N Streets in the City of Sacramento, any of the following, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment, if the area is posted with a statement providing reasonable notice that prosecution may result from possession of any of these items:

(A) Any firearm.

(B) Any deadly weapon described in ~~Section 653k or 12020~~ Section 21510 or in any provision listed in Section 16590.

(C) Any knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands.

(D) Any unauthorized tear gas weapon.

(E) Any stun gun, as defined in Section 244.5.

(F) Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun or paint gun.

(G) Any ammunition as defined in ~~Section 12316~~ Sections 16150 and 16650.

(H) Any explosive as defined in Section 12000 of the Health and Safety Code.

(b) Subdivision (a) shall not apply to, or affect, any of the following:

(1) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a retired peace officer with authorization to carry concealed weapons as described in ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, or any person summoned by any of these officers to assist in

making arrests or preserving the peace while he or she is actually engaged in assisting the officer.

(2) A person holding a valid license to carry the firearm pursuant to ~~Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4~~ Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, and who has permission granted by the Chief Sergeants at Arms of the State Assembly and the State Senate to possess a concealed weapon upon the premises described in subdivision (a).

(3) A person who has permission granted by the Chief Sergeants at Arms of the State Assembly and the State Senate to possess a weapon upon the premises described in subdivision (a).

(c)(1) Nothing in this section shall preclude prosecution under ~~Sections 12021 and 12021.4~~ Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a penalty greater than is set forth in this section.

(2) The provisions of this section are cumulative, and shall not be construed as restricting 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.

Comment. Section 171c is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons. A grammatical error in paragraph (c)(1) has been corrected (replacing “and” with “or”).

Penal Code § 171.7 (amended). Weapons at public transit facility

SEC. _____. Section 171.7 of the Penal Code is amended to read:

171.7. (a) For purposes of this section:

(1) “Public transit facility” means any land, building, or equipment, or any interest therein, including any station on a public transportation route, to which access is controlled in a manner consistent with the public transit authority’s security plan, whether or not the operation thereof produces revenue, that has as its primary purpose the operation of a public transit system or the

providing of services to the passengers of a public transit system. A public transit system includes the vehicles used in the system, including, but not limited to, motor vehicles, streetcars, trackless trolleys, buses, light rail systems, rapid transit systems, subways, trains, or jitneys, that transport members of the public for hire.

(2) “Sterile area” means any portion of a public transit facility that is generally controlled in a manner consistent with the public transit authority’s security plan.

(3) “Firearm” has the same meaning as specified in ~~Section 12004~~ subdivision (a) of Section 16520.

(b) It is unlawful for any person to knowingly possess within any sterile area of a public transit facility any of the following, if the sterile area is posted with a statement providing reasonable notice that prosecution may result from possession of these items:

(1) Any firearm.

(2) Any imitation firearm as defined in Section 417.4.

(3) Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun or paint gun.

(4) Any metal military practice hand grenade.

(5) Any metal replica hand grenade.

(6) Any plastic replica hand grenade.

(7) Any unauthorized tear gas weapon.

(8) Any undetectable knife, as described in ~~Section 12001.1~~ 17290.

(c)(1) Subdivision (b) shall not apply to, or affect, any of the following:

(A) A duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(B) A retired peace officer with authorization to carry concealed weapons as described in ~~subdivision (a) of Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.

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

(D) A qualified law enforcement officer of another state or the federal government, as permitted under the Law Enforcement

Officers Safety Act pursuant to Section 926B or 926C of Title 18 of the United States Code.

(E) Any person summoned by any of the officers listed in subparagraphs (A) to (C), inclusive, to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer.

(F) A person who is responsible for the security of the public transit system and who has been authorized by the public transit authority's security coordinator, in writing, to possess a weapon specified in subdivision (b).

(2) Paragraph (1) of subdivision (b) does not apply to or affect a person who is exempt from the prohibition against carrying a handgun pursuant to Section ~~12025~~ 25400 if the carrying of that handgun is in accordance with the terms and conditions of the exemption specified in ~~Section 12027~~ Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6 or Sections 25615 to 25655, inclusive.

(3) Paragraph (7) of subdivision (b) shall not apply to or affect the possession of a tear gas weapon when possession is permitted pursuant to ~~Chapter 4 (commencing with Section 12401) of Title 2 of Part 4~~ Division 11 (commencing with Section 22810) of Title 3 of Part 6.

(d) A violation of this section is punishable by imprisonment in a county jail for a period not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(e) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission that is punishable in different ways by this and any other provision of law shall not be punished under more than one provision.

(f) This section does not prevent prosecution under any other provision of law that may provide a greater punishment.

(g) This section shall be interpreted so as to be consistent with Section 926A of Title 18 of the United States Code.

Comment. Subdivisions (a), (b), and (c) of Section 171.7 are amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 186.22, as it reads in 2010 Cal. Stat. ch. 256, § 2
(amended). Promotion, furtherance, or assistance in felonious
conduct by gang member**

SEC. _____. Section 186.22 of the Penal Code, as it reads in Section 2 of Chapter 256 of the Statutes of 2010, is amended to read:

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

(b)(1) Except as provided in paragraphs (4) and (5), any person who is convicted of a felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished as follows:

(A) Except as provided in subparagraphs (B) and (C), the person shall be punished by an additional term of two, three, or four years at the court's discretion.

(B) If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years.

(C) If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years.

(2) If the underlying felony described in paragraph (1) is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school-related

programs or when minors are using the facility, that fact shall be a circumstance in aggravation of the crime in imposing a term under paragraph (1).

(3) The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its choice of sentencing enhancements on the record at the time of the sentencing.

(4) Any person who is convicted of a felony enumerated in this paragraph committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, be sentenced to an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of:

(A) The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 3046, if the felony is any of the offenses enumerated in subparagraph (B) or (C) of this paragraph.

(B) Imprisonment in the state prison for 15 years, if the felony is a home invasion robbery, in violation of subparagraph (A) of paragraph (1) of subdivision (a) of Section 213; carjacking, as defined in Section 215; a felony violation of Section 246; or a violation of Section 12022.55.

(C) Imprisonment in the state prison for seven years, if the felony is extortion, as defined in Section 519; or threats to victims and witnesses, as defined in Section 136.1.

(5) Except as provided in paragraph (4), any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

(c) If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the

defendant serve a minimum of 180 days in a county jail as a condition thereof.

(d) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

(e) As used in this chapter, “pattern of criminal gang activity” means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Discharging or permitting the discharge of a firearm from a motor vehicle, as defined in subdivisions (a) and (b) of Section ~~12034~~ 26100.

(7) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(8) The intimidation of witnesses and victims, as defined in Section 136.1.

(9) Grand theft, as defined in subdivision (a) or (c) of Section 487.

(10) Grand theft of any firearm, vehicle, trailer, or vessel.

(11) Burglary, as defined in Section 459.

(12) Rape, as defined in Section 261.

(13) Looting, as defined in Section 463.

(14) Money laundering, as defined in Section 186.10.

(15) Kidnapping, as defined in Section 207.

(16) Mayhem, as defined in Section 203.

(17) Aggravated mayhem, as defined in Section 205.

(18) Torture, as defined in Section 206.

(19) Felony extortion, as defined in Sections 518 and 520.

(20) Felony vandalism, as defined in paragraph (1) of subdivision (b) of Section 594.

(21) Carjacking, as defined in Section 215.

(22) The sale, delivery, or transfer of a firearm, as defined in ~~Section 12072~~ Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(23) Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of ~~paragraph (1) of subdivision (a) of Section 12101~~ Section 29610.

(24) Threats to commit crimes resulting in death or great bodily injury, as defined in Section 422.

(25) Theft and unlawful taking or driving of a vehicle, as defined in Section 10851 of the Vehicle Code.

(26) Felony theft of an access card or account information, as defined in Section 484e.

(27) Counterfeiting, designing, using, or attempting to use an access card, as defined in Section 484f.

(28) Felony fraudulent use of an access card or account information, as defined in Section 484g.

(29) Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, as defined in Section 530.5.

(30) Wrongfully obtaining Department of Motor Vehicles documentation, as defined in Section 529.7.

(31) Prohibited possession of a firearm in violation of ~~Section 12021~~ Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(32) Carrying a concealed firearm in violation of Section ~~12025~~ 25400.

(33) Carrying a loaded firearm in violation of Section ~~12031~~ 25850.

(f) As used in this chapter, “criminal street gang” means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e), having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(h) Notwithstanding any other provision of law, for each person committed to the Division of Juvenile Facilities for a conviction pursuant to subdivision (a) or (b) of this section, the offense shall be deemed one for which the state shall pay the rate of 100 percent of the per capita institutional cost of the Division of Juvenile Facilities, pursuant to Section 912.5 of the Welfare and Institutions Code.

(i) In order to secure a conviction or sustain a juvenile petition, pursuant to subdivision (a) it is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required.

(j) A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), and the commission of one or more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

(k) This section shall become operative on January 1, 2012.

Comment. Subdivision (e) of Section 186.22 (as it reads in 2010 Cal. Stat. ch. 256, § 2) is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Penal Code § 273.6, as it reads in 2010 Cal. Stat. ch. 178, § 55

(amended). Violation of protective order and other orders

SEC. _____. Section 273.6 of the Penal Code, as it reads in Section 55 of Chapter 178 of the Statutes of 2010, is amended to read:

273.6. (a) Any intentional and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6, 527.8, or 527.85 of the Code of Civil Procedure, or Section 15657.03 of the Welfare and Institutions Code, is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) In the event of a violation of subdivision (a) that results in physical injury, the person shall be punished by a fine of not more than two thousand dollars (\$2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by

both that fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interest of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) Any order issued pursuant to Section 6320 or 6389 of the Family Code.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior that the court determined was necessary to effectuate the order described in subdivision (a).

(4) Any order issued by another state that is recognized under Part 5 (commencing with Section 6400) of Division 10 of the Family Code.

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or “a credible threat” of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in subdivision (a) that results in physical injury to a victim, the person shall be punished by a fine of not more than two thousand dollars (\$2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and

imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interest of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders described in subdivisions (a), (b), (d), and (e).

(g)(1) Every person who owns, possesses, purchases, or receives a firearm knowing he or she is prohibited from doing so by the provisions of a protective order as defined in Section 136.2 of this code, Section 6218 of the Family Code, or Section ~~527.6 or 527.8~~ 527.6, 527.8, or 527.85 of the Code of Civil Procedure, or Section 15657.03 of the Welfare and Institutions Code, shall be punished under Section 29825.

(2) Every person subject to a protective order described in paragraph (1) shall not be prosecuted under this section for owning, possessing, purchasing, or receiving a firearm to the extent that firearm is granted an exemption pursuant to subdivision (f) of Section 527.9 of the Code of Civil Procedure, or subdivision (h) of Section 6389 of the Family Code.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), (c), (d), or (e), the court shall impose probation consistent with Section 1203.097, and the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter or to a shelter for abused elder persons or dependent adults, up to a maximum of five thousand dollars (\$5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

Comment. Subdivision (g) of Section 273.6 (as it reads in 2010 Cal. Stat. ch. 178, § 55) is amended to incorporate language that was chaptered out due to a conflict between two bills that amended the section in 2010. See SB 1062 (Strickland), 2010 Cal. Stat. ch. 709, §§ 10, 28; SB 1115 (Committee on Public Safety), 2010 Cal. Stat. ch. 178, §§ 55, 108; Gov't Code § 9605 (specifying how to resolve conflict between two bills that amend same section).

Penal Code § 626.95, as it reads in 2010 Cal. Stat. ch. 178, § 60 (amended). Firearm at playground or youth center

SEC. _____. Section 626.95 of the Penal Code, as it reads in Section 60 of Chapter 178 of the Statutes of 2010, is amended to read:

626.95. (a) Any person who is in violation of paragraph (2) of subdivision (a), or subdivision (b), of Section 417, or Section 25400 or 25850, upon the grounds of or within a playground, or a public or private youth center during hours in which the facility is open for business, classes, or school-related programs, or at any time when minors are using the facility, knowing that he or she is on or within those grounds, shall be punished by imprisonment in

the state prison for one, two, or three years, or in a county jail not exceeding one year.

(b) State and local authorities are encouraged to cause signs to be posted around playgrounds and youth centers giving warning of prohibition of the possession of firearms upon the grounds of or within playgrounds or youth centers.

(c) For purposes of this section, the following definitions shall apply:

(1) "Playground" means any park or recreational area specifically designed to be used by children that has play equipment installed, including public grounds designed for athletic activities such as baseball, football, soccer, or basketball, or any similar facility located on public or private school grounds, or on city or county parks.

(2) "Youth center" means any public or private facility that is used to host recreational or social activities for minors while minors are present.

(d) It is the Legislature's intent that only an actual conviction of a felony of one of the offenses specified in this section would subject the person to firearms disabilities under the federal Gun Control Act of 1968 (P.L. 90-618; 18 U.S.C. Sec. 921).

Comment. Subdivision (a) of Section 626.95 (as it reads in 2010 Cal. Stat. ch. 178, § 60) is amended to correct a technical error.

Penal Code § 626.10, as it reads in 2010 Cal. Stat. ch. 178, § 61

(amended). Bringing or possessing weapons on school grounds

SEC. _____. Section 626.10 of the Penal Code, as it reads in Section 61 of Chapter 178 of the Statutes of 2010, is amended to read:

626.10. (a)(1) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his

or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2½ inches, folding knife with a blade that locks into place, razor with an unguarded blade, taser, or stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

(2) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses a razor blade or a box cutter upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment

in a county jail not exceeding one year, or by imprisonment in the state prison.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 2½ inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than 2½ inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun, or any razor blade or box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in

kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

(h) As used in this section, “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

(i) Any person who, without the written permission of the college or university president or chancellor or his or her designee, brings or possesses a less lethal weapon, as defined in Section 16780, or a stun gun, as defined in Section 17230, upon the grounds of, or within, a public or private college or university campus is guilty of a misdemeanor.

Comment. Subdivisions (a)(1), (f), and (i) of Section 626.10 (as it reads in 2010 Cal. Stat. ch. 178, § 61) are amended to incorporate language that was chaptered out due to a conflict between two bills that amended the section in 2010. See SB 1115 (Committee on Public Safety), 2010 Cal. Stat. ch. 178, §§ 61, 108; SB 1330 (Committee on Judiciary), 2010 Cal. Stat. ch. 328, §§ 157, 266; Gov’t Code § 9605 (specifying how to resolve conflict between two bills that amend same section).

Penal Code § 629.52 (amended). Ex parte order authorizing interception of specified communications

SEC. _____. Section 629.52 of the Penal Code is amended to read:

629.52. Upon application made under Section 629.50, the judge may enter an ex parte order, as requested or modified, authorizing interception of wire or electronic communications initially intercepted within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines, on the basis of the facts submitted by the applicant, all of the following:

(a) There is probable cause to believe that an individual is committing, has committed, or is about to commit, one of the following offenses:

(1) Importation, possession for sale, transportation, manufacture, or sale of controlled substances in violation of Section 11351, 11351.5, 11352, 11370.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code with respect to a substance containing heroin, cocaine, PCP, methamphetamine, or their precursors or analogs where the substance exceeds 10 gallons by liquid volume or three pounds of solid substance by weight.

(2) Murder, solicitation to commit murder, a violation of Section 209, or the commission of a felony involving a destructive device in violation of Section ~~12303, 12303.1, 12303.2, 12303.3, 12303.6, 12308, 12309, 12310, or 12312, or a violation of Section 209~~18710, 18715, 18720, 18725, 18730, 18740, 18745, 18750, or 18755.

(3) Any felony violation of Section 186.22.

(4) Any felony violation of Section 11418, relating to weapons of mass destruction, Section 11418.5, relating to threats to use weapons of mass destruction, or Section 11419, relating to restricted biological agents.

(5) An attempt or conspiracy to commit any of the above-mentioned crimes.

(b) There is probable cause to believe that particular communications concerning the illegal activities will be obtained through that interception, including, but not limited to, communications that may be utilized for locating or rescuing a kidnap victim.

(c) There is probable cause to believe that the facilities from which, or the place where, the wire or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by the person whose communications are to be intercepted.

(d) Normal investigative procedures have been tried and have failed or reasonably appear either to be unlikely to succeed if tried or to be too dangerous.

Comment. Subdivision (a) of Section 629.52 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Subdivision (a) is also amended to make a stylistic revision.

**Penal Code § 1203.4, as it reads in 2010 Cal. Stat. ch. 178, § 76
(amended). Dismissal of information or accusation**

SEC. _____. Section 1203.4 of the Penal Code, as it reads in Section 76 of Chapter 178 of the Statutes of 2010, is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the

obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm or prevent his or her conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor that is within the provisions of ~~subdivision (b) of Section 42001~~ Section 42002.1 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, any felony conviction pursuant to subdivision (d) of Section 261.5, or to any infraction.

(c)(1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interests of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(d) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed one hundred fifty dollars (\$150), and to reimburse the county for the actual costs of

services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred fifty dollars (\$150), and to reimburse any city for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred fifty dollars (\$150). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the costs for services established pursuant to this subdivision.

(e) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(g) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

Comment. Subdivisions (a) and (b) of Section 1203.4 (as it reads in 2010 Cal. Stat. ch. 178, § 76) are amended to incorporate language that was chaptered out due to a conflict between two bills that amended the section in 2010. See SB 1115 (Committee on Public Safety), 2010 Cal. Stat. ch. 178, §§ 76, 108; SB 1330 (Committee on Judiciary), 2010 Cal. Stat. ch. 328, §§ 166, 266; Gov't Code § 9605 (specifying how to resolve conflict between two bills that amend same section).

Penal Code § 1203.4a (amended). Withdrawal of plea to misdemeanor

SEC. _____. Section 1203.4a of the Penal Code is amended to read:

1203.4a. (a) Every defendant convicted of a misdemeanor and not granted probation, and every defendant convicted of an infraction, shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty; or if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusatory pleading against the defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in ~~Section 12021.4~~ Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 13555 of the Vehicle Code. The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he or she is sentenced. The defendant may make an application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

This subdivision applies to convictions which occurred before, as well as those occurring after, the effective date of this section.

(b) Subdivision (a) does not apply to any misdemeanor falling within the provisions of Section 42002.1 of the Vehicle Code, or to any infraction falling within the provisions of Section 42001 of the Vehicle Code.

(c) A person who petitions for a dismissal of a charge under this section may be required to reimburse the county and the court for the cost of services rendered at a rate to be determined by the county board of supervisors for the county and by the court for the court, not to exceed sixty dollars (\$60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars (\$60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) A petition for dismissal of an infraction pursuant to this section shall be by written declaration, except upon a showing of compelling need. Dismissal of an infraction shall not be granted under this section unless the prosecuting attorney has been given at least 15 days' notice of the petition for dismissal. It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) Any determination of amount made by a court under this section shall be valid only if either (1) made under procedures adopted by the Judicial Council or (2) approved by the Judicial Council.

Comment. Subdivision (a) of Section 1203.4a is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Penal Code § 2933.5, as it reads in 2010 Cal. Stat. ch. 178, § 81

(amended). Persons ineligible for credit on term of imprisonment

SEC. _____. Section 2933.5 of the Penal Code, as it reads in Section 81 of Chapter 178 of the Statutes of 2010, is amended to read:

2933.5. (a)(1) Notwithstanding any other law, every person who is convicted of any felony offense listed in paragraph (2), and who previously has been convicted two or more times, on charges

separately brought and tried, and who previously has served two or more separate prior prison terms, as defined in subdivision (g) of Section 667.5, of any offense or offenses listed in paragraph (2), shall be ineligible to earn credit on his or her term of imprisonment pursuant to this article.

(2) As used in this subdivision, “felony offense” includes any of the following:

(A) Murder, as defined in Sections 187 and 189.

(B) Voluntary manslaughter, as defined in subdivision (a) of Section 192.

(C) Mayhem as defined in Section 203.

(D) Aggravated mayhem, as defined in Section 205.

(E) Kidnapping, as defined in Section 207, 209, or 209.5.

(F) Assault with vitriol, corrosive acid, or caustic chemical of any nature, as described in Section 244.

(G) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(H) Sodomy by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 286.

(I) Sodomy while voluntarily acting in concert, as described in subdivision (d) of Section 286.

(J) Lewd or lascivious acts on a child under the age of 14 years, as described in subdivision (b) of Section 288.

(K) Oral copulation by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 288a.

(L) Continuous sexual abuse of a child, as described in Section 288.5.

(M) Sexual penetration, as described in subdivision (a) of Section 289.

(N) Exploding a destructive device or explosive with intent to injure, as described in Section ~~12303.3~~ 18740, with intent to murder, as described in Section 18745, or resulting in great bodily injury or mayhem, as described in Section 18750.

(O) Any felony in which the defendant personally inflicted great bodily injury, as provided in Section 12022.53 or 12022.7.

(b) A prior conviction of an offense listed in subdivision (a) shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law.

(c) This section shall apply whenever the present felony is committed on or after the effective date of this section, regardless of the date of commission of the prior offense or offenses resulting in credit-earning ineligibility.

(d) This section shall be in addition to, and shall not preclude the imposition of, any applicable sentence enhancement terms, or probation ineligibility and habitual offender provisions authorized under any other section.

Comment. Subdivision (a) of Section 2933.5 (as it reads in 2010 Cal. Stat. ch. 178, § 81) is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Penal Code § 2962 (amended). Treatment by Department of Mental Health as parole condition

SEC. _____. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(a) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment.

The term “severe mental disorder” means an illness or disease or condition that substantially impairs the person’s thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. The term “severe mental disorder” as used in this section does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances.

The term “remission” means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. A person “cannot be kept in remission without treatment” if during the year prior to the question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner’s parole or release.

(d)(1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a facility of the Department of Corrections, and a chief psychiatrist of the Department of Corrections has certified to the Board of Prison Terms that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner’s criminal behavior, that the prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to his or her parole release day, and that by reason of his or her severe mental disorder the prisoner represents a substantial danger of physical harm to others. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of

Corrections, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (A) the prisoner has a severe mental disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental disorder was a cause of, or aggravated, the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Prison Terms pursuant to this paragraph, then the Board of Prison Terms shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) If at least one of the independent professionals who evaluate the prisoner pursuant to paragraph (2) concurs with the chief psychiatrist's certification of the issues described in paragraph (2), this subdivision shall be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the purpose of their examination is not treatment but to determine if the prisoner meets certain criteria to be involuntarily treated as a mentally disordered offender. It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) meets both of the following criteria:

(1) The defendant received a determinate sentence pursuant to Section 1170 for the crime.

(2) The crime is one of the following:

(A) Voluntary manslaughter.

(B) Mayhem.

(C) Kidnapping in violation of Section 207.

(D) Any robbery wherein it was charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(E) Carjacking, as defined in subdivision (a) of Section 215, if it is charged and proved that the defendant personally used a deadly

or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of the carjacking.

(F) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(G) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(H) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(I) Lewd acts on a child under the age of 14 years in violation of Section 288.

(J) Continuous sexual abuse in violation of Section 288.5.

(K) The offense described in subdivision (a) of Section 289 where the act was accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(L) Arson in violation of subdivision (a) of Section 451, or arson in violation of any other provision of Section 451 or in violation of Section 455 where the act posed a substantial danger of physical harm to others.

(M) Any felony in which the defendant used a firearm which use was charged and proved as provided in Section 12022.5, 12022.53, or 12022.55.

(N) A violation of Section ~~12308~~ 18745.

(O) Attempted murder.

(P) A crime not enumerated in subparagraphs (A) to (O), inclusive, in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243.

(Q) A crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in such a manner that a reasonable person would believe and expect that the force or violence would be used. For purposes of this subparagraph,

substantial physical harm shall not require proof that the threatened act was likely to cause great or serious bodily injury.

(f) As used in this chapter, “substantial danger of physical harm” does not require proof of a recent overt act.

Comment. Subdivision (e) of Section 2962 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

Penal Code § 11105 (amended). State and federal summary criminal history information furnished by Department of Justice

SEC. _____. Section 11105 of the Penal Code is amended to read:
11105. (a)(1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) “State summary criminal history information” means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) “State summary criminal history information” does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of

Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(9) A public defender or attorney of record when representing a person in a criminal case, or parole revocation or revocation extension proceeding, and if authorized access by statutory or decisional law.

(10) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) Any city or county, city and county, district, or any officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that

specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(16) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in

Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving criminal record offender information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing his or her duties.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(10)(A) Any public utility, as defined in Section 216 of the Public Utilities Code, or any cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. Any public utility's or cable corporation's request for state summary criminal

history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a “compelling need” as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities or cable corporations to request state summary criminal history information on any current or prospective employees.

(B) For purposes of this paragraph, “cable corporation” means any corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(D)(i) Authority for a cable corporation to request state or federal level criminal history information under this paragraph shall commence July 1, 2005.

(ii) Authority for a public utility to request federal level criminal history information under this paragraph shall commence July 1, 2005.

(11) To any campus of the California State University or the University of California, or any four year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the

convicted felon's fingerprints and any other information specified by the department.

(12) To any foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and ~~12054~~ 26190 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k)(1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or

has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided however that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(l)(1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101 of the Penal Code, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention.

(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(m)(1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in either the successful completion of a diversion program or exoneration.

(n)(1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department

of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (9) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) Any statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(o)(1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 261 or 550 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the

information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 550 of the Financial Code.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p)(1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the

Department of Justice for subsequent arrest notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

Comment. Subdivision (e) of Section 11105 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

**Penal Code § 11105.03, as it reads in 2010 Cal. Stat. ch. 178, § 88
(amended). Retention of records**

SEC. _____. Section 11105.03 of the Penal Code, as it reads in Section 88 of Chapter 178 of the Statutes of 2010, is amended to read:

11105.03. (a) Subject to the requirements and conditions set forth in this section and Section 11105, local law enforcement agencies are hereby authorized to provide state criminal summary history information obtained through CLETS for the purpose of screening prospective participants and prospective and current staff of a regional, county, city, or other local public housing authority, at the request of the chief executive officer of the authority or his or her designee, upon a showing by that authority that the authority manages a Section 8 housing program pursuant to federal law (U.S. Housing Act of 1937), or operates housing at which children under the age of 18 years reside or operates housing for persons categorized as aged, blind, or disabled.

(b) The following requirements shall apply to information released by local law enforcement agencies pursuant to subdivision (a):

(1) Local law enforcement agencies shall not release any information unless it relates to a conviction for a serious felony, as defined in subdivision (c) of Section 1192.7, a conviction for any offense punishable under Section 273.5, 422.6, 422.7, 422.75, 422.9, or 1170.75, or under Chapter 2 (commencing with Section

29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6, or under any provision listed in Section 16590, a conviction under Section 273.6 that involves a violation of a protective order, as defined in Section 6218 of the Family Code, or a conviction for any felony offense that involves controlled substances or alcoholic beverages, or any felony offense that involves any activity related to controlled substances or alcoholic beverages, or a conviction for any offense that involves domestic violence, as defined in Section 13700.

(2) Local law enforcement agencies shall not release any information concerning any arrest for an offense that did not result in a conviction.

(3) Local law enforcement agencies shall not release any information concerning any offense committed by a person who was under 18 years of age at the time he or she committed the offense.

(4) Local law enforcement agencies shall release any information concerning any conviction or release from custody that occurred within 10 years of the date on which the request for information is submitted to the Attorney General, unless the conviction was based upon a felony offense that involved controlled substances or alcoholic beverages or a felony offense that involved any activity related to controlled substances or alcoholic beverages. Where a conviction was based on any of these felony offenses, local law enforcement agencies shall release any information concerning this conviction if the conviction occurred within five years of the date on which a request for the information was submitted.

(5) Notwithstanding paragraph (4), if information that meets the requirements of paragraphs (2) to (4), inclusive, is located and the information reveals a conviction of an offense specified in paragraph (1), local law enforcement agencies shall release all summary criminal history information concerning the person whether or not the information meets the requirements of paragraph (4), provided, however, that the information meets the requirements of paragraphs (1) to (3), inclusive.

(6) Information released to the local public housing authority pursuant to this section shall also be released to parole or probation officers at the same time.

(c) State summary criminal history information shall be used by the chief executive officer of the housing authority or a designee only for purposes of identifying prospective participants in subsidized programs and prospective and current staff who have access to residences, whose criminal history is likely to pose a risk to children under the age of 18 years or persons categorized as aged, blind, or disabled living in the housing operated by the authority.

(d) If a housing authority obtains summary criminal history information for the purpose of screening a prospective participant pursuant to this section, it shall review and evaluate that information in the context of other available information and shall not evaluate the person's suitability as a prospective participant based solely on his or her past criminal history.

(e) If a housing authority determines that a prospective participant is not eligible as a resident, it shall promptly notify him or her of the basis for its determination and, upon request, shall provide him or her within a reasonable time after the determination is made with an opportunity for an informal hearing on the determination in accordance with Section 960.207 of Title 24 of the Code of Federal Regulations.

(f) Any information obtained from state summary criminal history information pursuant to this section is confidential and the recipient public housing authority shall not disclose or use the information for any purpose other than that authorized by this section. The state summary criminal history information in the possession of the authority and all copies made from it shall be destroyed not more than 30 days after the authority's final decision whether to act on the housing status of the individual to whom the information relates.

(g) The local public housing authority receiving state summary criminal history information pursuant to this section shall adopt regulations governing the receipt, maintenance, and use of the information. The regulations shall include provisions that require

notice that the authority has access to criminal records of participants and employees who have access to programs.

(h) Use of this information is to be consistent with Title 24 of the Code of Federal Regulations and the current regulations adopted by the housing authority using the information.

(i) Nothing in this section shall be construed to require a housing authority to request and review an applicant's criminal history.

(j) The California Housing Authorities Association, after compiling data from all public housing authorities that receive summary criminal information pursuant to this chapter, shall report its findings based upon this data to the Legislature prior to January 1, 2000.

Comment. Paragraph (b)(1) of Section 11105.03 (as it reads in 2010 Cal. Stat. ch. 178, § 88) is amended to correct a typographical omission.

**Penal Code § 11106, as it reads in 2010 Cal. Stat. ch. 178, § 89
(amended). Retention of records**

SEC. _____. Section 11106 of the Penal Code, as it reads in Section 89 of Chapter 178 of the Statutes of 2010, is amended to read:

11106. (a)(1) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (c), the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of ~~all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215, information reported to the Department of Justice pursuant to Section 26225, dealers' records of sales of firearms, reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585, forms provided pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, reports provided pursuant to Sections 26700 to 26915, inclusive, that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and all of the following:~~

(A) All copies of fingerprints.

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

(C) Information reported to the Department of Justice pursuant to Section 26225.

(D) Dealers' records of sales of firearms.

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

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

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

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

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

(b)(1) Except as provided in subdivision (d), the Attorney General shall not retain or compile any information from reports filed pursuant to any provision listed in subdivision (c) of Section 16585 for firearms that are not handguns, from forms submitted pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, for firearms that are not handguns, or from dealers' records of sales for firearms that are not handguns any of the following:

(A) Reports filed pursuant to any provision listed in subdivision (c) of Section 16585 for firearms that are not handguns.

(B) Forms submitted pursuant to Section 12084, as that section read prior to being repealed on January 1, 2006, for firearms that are not handguns.

(C) Dealers' records of sales for firearms that are not handguns.

(2) All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084, as that

section read prior to being repealed by the act that amended this section on January 1, 2006, for firearms that are not handguns, or of the dealers' records of sales for firearms that are not handguns shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm.

(3) All copies of the reports filed, or any information received in electronic form, pursuant to any provision listed in subdivision (c) of Section 16585 for firearms that are not handguns shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

~~(2)~~ (4) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearm transaction record, as defined in Section 16550, for firearms that are not handguns unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Sections 26700 to 26915, inclusive Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

~~(3)~~ (5) A violation of this subdivision is a misdemeanor.

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

(A) ~~Sections 26700 to 26915, inclusive~~ Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(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 reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

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

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

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

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

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable

optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(d)(1) ~~Any~~ If the conditions specified in paragraph (2) are met, any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to ~~Section 26225, Sections 26700 to 26915, inclusive, (A) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, (B) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, (C) Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6, (D) Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6, (E) Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6, or (F) any provision listed in subdivision (a) of Section 16585, if the following conditions are met:~~ any of the following:

(A) Section 26225.

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

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

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

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

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

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

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

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

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

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

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

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

Comment. Section 11106 (as it reads in 2010 Cal. Stat. ch. 178, § 89) is amended to improve clarity and readability. This is not a substantive change.

**Penal Code § 12003, as it reads in 2010 Cal. Stat. ch. 711, § 5
(amended). Severability of provisions**

SEC. _____. Section 12003 of the Penal Code, as it reads in Section 5 of Chapter 711 of the Statutes of 2010, is amended to read:

12003. If any section, ~~subsection~~ subdivision, paragraph, subparagraph, sentence, clause, or phrase of this title or any other

provision listed in Section 16580 is for any reason held to be unconstitutional, that decision shall not affect the validity of the remaining portions of this title or any other provision listed in Section 16580. The Legislature hereby declares that it would have passed this title and any other provision listed in Section 16580, and each section, ~~subsection~~ subdivision, paragraph, subparagraph, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, ~~subsections~~ subdivisions, paragraphs, subparagraphs, sentences, clauses, or phrases be declared unconstitutional.

Comment. Section 12003 (as it reads in 2010 Cal. Stat. ch. 711, § 5) is amended to make terminological corrections. This is not a substantive change.

Penal Code § 23505 (amended). Severability of provisions

SEC. _____. Section 23505 of the Penal Code is amended to read:

23505. If any section, ~~subsection~~ subdivision, paragraph, subparagraph, sentence, clause, or phrase of any provision listed in Section 16580 is for any reason held unconstitutional, that decision does not affect the validity of any other provision listed in Section 16580. The Legislature hereby declares that it would have passed the provisions listed in Section 16580 and each section, ~~subsection~~ subdivision, paragraph, subparagraph, sentence, clause, and phrase of ~~it~~ those provisions, irrespective of the fact that any one or more other sections, ~~subsections~~ subdivisions, paragraphs, subparagraphs, sentences, clauses, or phrases be declared unconstitutional.

Comment. Section 23505 is amended to make terminological corrections and a grammatical correction. This is not a substantive change.

Penal Code § 25105 (amended). Exceptions

SEC. _____. Section 25105 of the Penal Code is amended to read:

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

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

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

(c) 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.

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

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

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

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

Comment. Section 25105 is amended to make a grammatical correction. This is not a substantive change.

Penal Code § 29510 (amended). Application fee

SEC. _____. Section 29510 of the Penal Code is amended to read:

29510. (a) The Department of Justice shall recover the full costs of administering the entertainment firearms permit program by assessing the following application fees:

(1) For the initial application: one hundred four dollars (\$104). Of this sum, fifty-six dollars (\$56) shall be deposited into the Fingerprint Fee Account, and forty-eight dollars (\$48) shall be deposited into the ~~Dealer~~ Dealers' Record of Sale Special Account.

(2) For each annual renewal application: twenty-nine dollars (\$29), which shall be deposited into the ~~Dealer~~ Dealers' Record of Sale Special Account.

(b) The department shall annually review and shall adjust the fees specified in subdivision (a), if necessary, to fully fund, but not to exceed the actual costs of, the permit program provided for by this chapter, including enforcement of the program.

Comment. Section 29510 is amended to replace "Dealer Record of Sale Account" with "Dealers' Record of Sale Special Account." This

conforms to the terminology used in other provisions that refer to the same account. See Sections 27560(f), 28235, 28460, 30900, 30905, 31115, 33860.

Welf. & Inst. Code § 8103 (amended). Weapon restrictions on patients and other persons

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

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

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

(b)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a

violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section ~~12303.1, 12303.2, 12303.3, 12308, 12309, or 12310~~ 18715, 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

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

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

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

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

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

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

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

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

guilty of a misdemeanor. All the information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

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

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

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

(B) Commencing July 1, 2012, facilities shall submit reports pursuant to this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

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

permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall provide the person with a form for a request for a hearing. The Department of Justice shall prescribe the form. Where the person requests a hearing at the time of discharge, the facility shall forward the form to the superior court unless the person states that he or she will submit the form to the superior court.

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

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

information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code shall be admissible at the hearing under this section.

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

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

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

(9) Nothing in this subdivision shall prohibit the use of reports filed pursuant to this section to determine the eligibility of persons

to own, possess, control, receive, or purchase a firearm if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm.

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

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

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

(B) Commencing July 1, 2012, facilities shall submit reports pursuant to this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

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

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

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

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

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

(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment in the state prison or in a county jail for not more than one year.

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

Comment. Subdivision (b) of Section 8103 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).

Welf. & Inst. Code § 15657.03 (amended). Protective orders for elder or dependent adult and other specified persons

SEC. _____. Section 15657.03 of the Welfare and Institutions Code is amended to read:

15657.03. (a)(1) An elder or dependent adult who has suffered abuse as defined in Section 15610.07 may seek protective orders as provided in this section.

(2) A petition may be brought on behalf of an abused elder or dependent adult by a conservator or a trustee of the elder or dependent adult, an attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney, a person appointed as a guardian ad litem for the elder or dependent adult, or other person legally authorized to seek such relief.

(b) For the purposes of this section:

(1) “Conservator” means the legally appointed conservator of the person or estate of the petitioner, or both.

(2) “Petitioner” means the elder or dependent adult to be protected by the protective orders and, if the court grants the petition, the protected person.

(3) “Protective order” means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(A) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner.

(B) An order excluding a party from the petitioner’s residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.

(C) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) or (B).

(4) “Respondent” means the person against whom the protective orders are sought and, if the petition is granted, the restrained person.

(c) An order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if a declaration shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in paragraph (3) of subdivision (b). However, the court may issue an ex parte order excluding a party from the

petitioner's residence or dwelling only on a showing of all of the following:

(1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(2) That the party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(3) That physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) Within 21 days, or, if good cause appears to the court, 25 days, from the date that a request for a temporary restraining order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(g) The respondent may file a response that explains or denies the alleged abuse.

(h) The court may issue, upon notice and a hearing, any of the orders set forth in paragraph (3) of subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(i)(1) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court

or on the motion of a party. These orders may be renewed upon the request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(j) In a proceeding under this section, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of abuse. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of abuse and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(k) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any declarations in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(l) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to five years.

(m)(1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(n)(1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent that is available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address: _____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at

the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

(o)(1) Information on any protective order relating to elder or dependent adult abuse issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement agency having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court’s discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer

with an endorsed copy of the order and a proof of service, which the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall at that time also enforce the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.

(p) Nothing in this section shall preclude either party from representation by private counsel or from appearing on the party's own behalf.

(q) There is no filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(r) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, a petitioner shall not be required to pay a fee for law enforcement to serve an order issued under this section.

(s) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(t)(1) A person subject to a protective order under this section shall not own, possess, purchase, receive, or attempt to receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while subject to a protective order issued under this section is punishable pursuant to ~~subdivision (g) of Section 12021~~ Section 29825 of the Penal Code.

(4) This subdivision shall not apply in a case in which the protective order issued under this section was made solely on the basis of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(u) Any willful disobedience of any temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(v) This section does not apply to any action or proceeding governed by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a petitioner's right to use other existing civil remedies.

(w) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

Comment. Subdivision (t) of Section 15657.03 is amended to reflect nonsubstantive reorganization of the statutes governing control of deadly weapons.

For guidance in applying this section, see Section 16015 (determining existence of prior conviction).
