

File No. 240314

Committee Item No. _____

Board Item No. 50

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting

Date: April 2, 2024

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Prepared by: Jocelyn Wong

Date: March 29, 2024

Prepared by: _____

Date: _____

1 [Supporting California State Senate Bill No. 899 (Skinner and Blakespear) -
2 Strengthening California's Red Flag Laws]

2

3 **Resolution supporting California State Senate Bill No. 899, introduced by**
4 **Senators Nancy Skinner and Catherine Blakespear, to strengthen California's**
5 **'Red Flag' Laws.**

6

7 WHEREAS, In recognition of the urgent need to address gun violence in
8 California, Senators Nancy Skinner and Catherine Blakespear have jointly introduced
9 Senate Bill 899 (SB 899), which will fortify the effectiveness of California's "Red Flag"
10 laws and other firearm-prohibiting restraining order statutes; and

11 WHEREAS, SB 899 aims to restrict individuals who are subject to protective
12 orders from possessing firearms and ammunition, thereby reducing the risk of causing
13 harm to themselves and others; and

14 WHEREAS, SB 899, specifies that courts must inform individuals subject to
15 protective orders on how to relinquish firearms and ammunition in their possession,
16 necessitating a court review to verify compliance and mandating that any violations be
17 reported to the prosecuting attorney within two business days unless compliance is
18 demonstrated through receipt submission; and

19 WHEREAS, SB 899, addresses the critical need for a streamlined process for
20 serving protective orders by mandating that peace officers serve protective orders upon
21 request without imposing fees on petitioners, thereby enhancing the efficiency and
22 enforceability of these orders in cases of domestic violence, elder or dependent adult
23 abuse, harassment, workplace violence, and violence in postsecondary educational
24 institutions; and

25

1 WHEREAS, SB 899, facilitates the issuance of search warrants for the seizure of
2 firearms and ammunition from individuals subject to these orders, thereby closing a
3 critical loophole in public safety protection and ensuring that no firearms or ammunition
4 remain with those prohibited from owning them due to restraining orders; and

5 WHEREAS, By expanding the duties of law enforcement, SB 899 acknowledges
6 the paramount importance of accessibility and enforcement of protective orders for the
7 safety of all Californians; and

8 WHEREAS, SB 899, further acknowledges the complexity of domestic violence
9 situations and the intricacies of family law by considering compliance with protective
10 orders as a factor in child custody proceedings, as well as by operating on the
11 rebuttable presumption that an award of sole or joint physical or legal custody of a child
12 to a person who has perpetrated domestic violence is detrimental to the best interest of
13 a child and establishes factor, thereby prioritizing the safety and well-being of children;
14 and

15 WHEREAS, The amendments proposed by SB 899 are consistent with and
16 further the intent of the Safety For All Act of 2016, ensuring that neither firearms nor
17 ammunition fall into the hands of dangerous individuals, thereby safeguarding the
18 community at large; and

19 WHEREAS, This legislation is supported by research from the Centers for
20 Disease Control and Prevention (CDC), showing that California has one of the lowest
21 firearm mortality rates in the nation, reflecting the state's commitment to robust gun
22 safety laws, with SB 899 poised to further this commitment; and

23 WHEREAS, SB 899, exemplifies California's ongoing effort to prevent gun
24 violence and protect its citizens, by ensuring that existing laws are implemented
25

1 effectively, and that individuals deemed a risk do not have access to firearms; now,
2 therefore, be it

3 RESOLVED, That the Board of Supervisors of the City and County of San
4 Francisco hereby supports California Senate Bill 899 and urges its swift passage in the
5 California Legislature; and, be it

6 FURTHER RESOLVED, That the Clerk of the Board of Supervisors is directed to
7 transmit copies of this resolution to Governor Gavin Newsom, President pro Tempore
8 Mike McGuire, Speaker of the State Assembly Robert Rivas, State Senator Scott
9 Wiener, Assemblymember Matt Haney, and Assemblymember Phil Ting, as an
10 expression of San Francisco's strong support for SB 899 and its critical provisions
11 aimed at enhancing public safety and preventing gun violence.

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SB-899 Protective orders: firearms. (2023-2024)

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AMENDED IN SENATE MARCH 20, 2024

AMENDED IN SENATE FEBRUARY 27, 2024

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 899

Introduced by Senators Skinner and Blakespear
(Principal coauthor: Assembly Member Petrie-Norris)

January 03, 2024

An act to amend Section 527.9 of, and to add ~~Section 527.11 to,~~ *Sections 527.11 and 527.12 to,* the Code of Civil Procedure, to amend Sections 3044 and 6389 of the Family Code, and to amend Sections 1524, 11108.2, 18120, 25555, 26379, 26405, 26540, 28100, 29810, 29830, and 30342 of, and to add Section 18120.5 to, the Penal Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

SB 899, as amended, Skinner. Protective orders: firearms.

Existing law prohibits a person subject to specified protective orders from owning a firearm or ammunition. Existing law requires a person subject to those orders to relinquish any firearms or ammunition they own.

This bill would require the court, when issuing those orders, to provide the person subject to the order with information on how any firearms or ammunition still in their possession are to be relinquished, as specified. The bill would require the court to review the file to determine whether the receipt has been filed and inquire as to whether the person has complied with the requirement. The bill would require violations of the firearms or ammunition prohibition to be reported to the prosecuting attorney in the jurisdiction where the order has been issued within 2 business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court.

This bill would also require the court, at a noticed hearing relating to these orders, to consider information presented that the restrained person has possession or control of a firearm or ammunition. The bill would authorize the court, upon making this finding, to set a review hearing, as specified, to determine whether the person has possession or control of a firearm or ammunition in violation of the above provisions.

Existing law requires specified protective orders related to domestic violence to be served on the respondent at the request of the petitioner, whether or not the respondent has been taken into custody, by a law enforcement officer who is present at the scene of reported domestic violence involving the parties to the proceeding or who receives a request from the petitioner to provide service of the order. Existing law requires the petitioner to provide the officer with an endorsed copy of the order and proof of service that the officer is then required to complete and transmit to the issuing court, as specified. If the law enforcement officer determines that a protective order has been issued but not served, existing law requires the office to immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and to enforce the order at that time. Existing law prohibits a fee from being charged to the petitioner for service of those orders.

This bill would similarly require a peace officer, as defined, upon the request of a petitioner, to serve and enforce specified protective orders related to, among other things, elder or dependent adult abuse, harassment, workplace violence, or violence in postsecondary educational institutions, on a respondent, whether or not the respondent has been taken into custody. The bill would similarly prohibit the imposition of a fee on a petitioner for service of these orders. By expanding the duties of local law enforcement, this bill would impose a state-mandated local program.

Existing law requires a family court to determine the best interest of the child for purposes of deciding child custody in proceedings for dissolution of marriage, nullity of marriage, legal separation of the parties, petitions for exclusive custody of a child, and proceedings under the Domestic Violence Prevention Act. Existing law establishes a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of a child and establishes factors to be considered in rebutting that presumption, including that the perpetrator is restrained by a domestic violence prevention order and has, or has not, complied with that order.

This bill would additionally establish, as a factor to be considered, whether the perpetrator is restrained by any other protective order and has, or has not, complied with that order.

The bill would, for specified protective orders if the respondent declines to relinquish possession of a firearm or ammunition based on the assertion of the right against self-incrimination, authorize the court to grant use immunity for the relinquishment of the firearm.

Existing law allows a search warrant to be issued upon probable cause, supported by affidavit, naming or describing the person to be searched or searched for, and particularly describing the property, thing, or things and the place to be searched. Existing law also specifies the grounds upon which a search warrant may be issued, including, among other grounds, that the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person prohibited from owning that firearm due to a domestic violence restraining order, as specified.

This bill would additionally allow a search warrant to be issued for ammunition that a person is prohibited from owning due to a domestic violence restraining order, and for a firearm or ammunition that a person is prohibited from owning due to other specified temporary restraining orders or injunctions.

Existing law, the Safety For All Act of 2016, approved by the voters as Proposition 63 at the November 8, 2016, statewide general election, requires any person selling specified amounts of ammunition to be licensed as an ammunition vendor. Existing law exempts specified transfers of ammunition from these provisions.

Proposition 63 allows its provisions to be amended by a vote of 55% of the Legislature so long as the amendments are consistent with, and further the intent of, the act.

This bill would amend Proposition 63 to exempt the sale of ammunition to a licensed ammunition vendor by a person required to relinquish that ammunition due to specified protective orders. The bill would make additional conforming and clarifying changes, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: 55% Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares both of the following:

(a) The intent expressed in the Safety for All Act of 2016 is to safeguard the ability of law-abiding, responsible Californians to own and use firearms for lawful means while requiring background checks for ammunition purchases in the manner required for firearm purchases so that neither firearms nor ammunition gets into the hands of dangerous individuals.

(b) To the extent that this act amends the Safety for All Act of 2016, the amendments are consistent with and further that intent. The amendments ensure that ammunition, which, pursuant to Section 527.9 of the Code of Civil Procedure or Section 18120 of the Penal Code, is required to be sold to a licensed ammunition vendor, can be sold in a manner that is consistent with the decision of the United States Supreme Court in *Henderson v. U.S.*, (2015) 575 U.S. 622.

SEC. 2. Section 527.9 of the Code of Civil Procedure 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 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 court shall provide the person with information on how any firearms or ammunition still in the restrained party's possession are to be relinquished, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment. 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. A court holding a hearing on this matter shall review the file to determine whether the receipt has been filed and inquire of the respondent whether they have complied with the requirement. Violations of the firearms prohibition of any restraining order under this section shall be reported to the prosecuting attorney in the jurisdiction where the order has been issued within two business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court. If the person does not file a receipt with the court within 48 hours after receiving the order for a registered firearm in their possession, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of a protective order, information about the firearm or ammunition, and of any other information the court deems appropriate. 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 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 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 26700 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon their 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 their 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.

(h) If the respondent declines to relinquish possession of a firearm or ammunition 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 or ammunition required under this section.

(i) (1) The relinquishment or surrender of a firearm to a law enforcement agency pursuant to this section or the return of a firearm to a person pursuant to this section shall not be subject to the requirements of Section 27545 of the Penal Code.

(2) Returns of firearms or ammunition pursuant to this section shall be governed by the applicable provisions of Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code.

SEC. 3. Section 527.11 is added to the Code of Civil Procedure, to read:

527.11. (a) When relevant information is presented to the court at any noticed hearing that a restrained person has a firearm, the court shall consider that information to determine, by a preponderance of the evidence, whether the person subject to an order defined in Section 527.6, 527.8, or 527.85 or Section 15657.03 of the Welfare and Institutions Code, has a firearm in or subject to their immediate possession or control in violation of the order.

(b) (1) In making a determination under this section, the court may consider whether the restrained person filed a firearm relinquishment, storage, or sales receipt or if an exemption from the firearm prohibition was granted.

(2) The court may make the determination at any noticed hearing where a restraining order is issued, at a subsequent review hearing, or at any subsequent hearing while the order remains in effect.

(3) If the court makes a determination that the restrained person has a firearm in violation of the order, the court must make a written record of the determination and provide a copy to any party who is present at the hearing and, upon request, to any party not present at the hearing.

(c) (1) When presented with information under subdivision (a), the court may set a review hearing to determine whether a violation of the order has taken place.

(2) The review hearing shall be held within 10 court days after the noticed hearing at which the information was presented. If the restrained person is not present when the court sets the review hearing, the protected person must provide notice of the review hearing to the restrained person at least two court days before the review hearing, in accordance with Section 414.10, by personal service or by mail to the restrained person's last known address.

(3) The court may for good cause extend the date of the review hearing for a reasonable period or remove it from the calendar.

(4) The court shall order the restrained person to appear at the review hearing.

(5) The court may conduct the review hearing in the absence of the protected person.

(6) This section does not prohibit the court from permitting a party or witness to appear through technology that enables remote appearances, as determined by the court.

(d) The determination made pursuant to this section may be considered by the court in issuing an order to show cause for contempt pursuant to paragraph (5) of subdivision (a) of Section 1209 or an order for monetary sanctions pursuant to Section 177.5.

SEC. 4. *Section 527.12 is added to the Code of Civil Procedure, to read:*

527.12. *(a) A peace officer shall, upon the request of a petitioner, serve any temporary restraining order, order after hearing, or protective order issued pursuant to Sections 527.6, 527.8, and 527.85, Section 136.2 of the Penal Code, or Section 15657.03 of the Welfare and Institutions Code, on the respondent, whether or not the respondent has been taken into custody.*

(b) (1) The petitioner shall provide the peace officer with an endorsed copy of the order and the officer shall complete and transmit the proof of service to the issuing court. It is a rebuttable presumption that the proof of service was signed on the date of service.

(2) If the protected person cannot produce an endorsed copy of the order, the peace officer shall immediately verify the existence of the order in the California Restraining and Protective Order System.

(3) If the peace officer determines that an order subject to this section has been issued but not served, the officer shall immediately notify the respondent of the terms of the order and advise the respondent to obtain a copy of the full order from the issuing court. Upon notice, the officer shall immediately enforce the order. The 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 Sections 273.6 and 29825 of the Penal Code.

(4) If an order served pursuant to this section is subject to the reporting requirements of Section 13730 of the Penal Code, the report shall include the name and assignment of the peace officer who served the order and the case number of the order. If a report is not required, the information specified in this paragraph shall be included in the daily incident log of the officer's employing law enforcement agency.

(c) Notwithstanding any law, a fee shall not be charged to the petitioner for service of an order pursuant to this section.

(d) (1) There shall be no civil liability on the part of, and no cause of action for false arrest or false imprisonment against, a peace officer who makes an arrest pursuant to a protective or restraining order that is regular upon its face, if the peace officer, in making the arrest, acts in good faith and has reasonable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order.

(2) If there is more than one order issued and one of the orders is an emergency protective order that has precedence in enforcement pursuant to paragraph (1) of subdivision (c) of Section 136.2 of the Penal Code, the peace officer shall enforce the emergency protective order. If there is more than one order issued, none of the orders issued is an emergency protective order that has precedence in enforcement, and one of the orders issued is a no-contact order, the peace officer shall enforce the no-contact order. If there is more than one civil order regarding the same parties and neither an emergency protective order that has precedence in enforcement nor a no-contact order has been issued, the peace officer shall enforce the order that was issued last. If there are both civil and criminal orders regarding the same parties and neither an emergency protective order that has precedence in enforcement nor a no-contact order has been issued, the peace officer shall enforce the criminal order issued last, subject to the provisions of subdivisions (h) and (i) of Section 136.2 of

the Penal Code. This section does not exonerate a peace officer from liability for the unreasonable use of force in the enforcement of the order. The immunities afforded by this section shall not affect the availability of any other immunity that may apply, including, but not limited to, Sections 820.2 and 820.4 of the Government Code.

(e) For purposes of this section, "peace officer" has the same meaning as that term is defined in Section 830 of the Penal Code.

SEC. 4. SEC. 5. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against a person in subparagraph (A) of paragraph (2) of subdivision (a) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(G) The court has determined, pursuant to Section 6322.5, that the perpetrator is a restrained person in possession or control of a firearm or ammunition in violation of Section 6389, Section 527.9 of the Code of Civil Procedure, or Section 18120 of the Penal Code.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Sections 3011 and 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 5. SEC. 6. Section 6389 of the Family Code 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. A 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 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 or ammunition and not to purchase or receive or attempt to purchase or receive any firearms or ammunition 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 or ammunition 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 or ammunition in a safe manner, upon request of a law enforcement officer, to the control of the officer, after being served with the protective order. A law enforcement officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm or ammunition be immediately surrendered. Alternatively, if a request is not made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm or ammunition in a safe manner to the control of local law enforcement officials, or by selling, transferring, or relinquishing for storage pursuant to Section 29830 of the Penal Code, the firearm or ammunition to a licensed gun dealer, as specified in 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 or ammunition pursuant to this subdivision shall issue a receipt to the person relinquishing the firearm or ammunition at the time of relinquishment. A person ordered to relinquish a firearm or ammunition pursuant to this subdivision shall, within 48 hours after being served with the order, do both of the following:

(A) File, with the court that issued the protective order, the receipt showing the firearm or ammunition 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.

(B) File a copy of the receipt described in subparagraph (A) with the law enforcement agency that served the protective order. Failure to timely file a copy of the 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 or ammunition presently known by the petitioner to be possessed or controlled by the respondent.

(4) A court holding a hearing on this matter shall review the file to determine whether the receipt has been filed and inquire of the respondent whether they have complied with the requirement. Violations of the firearms prohibition of any restraining order under this section shall be reported to the prosecuting attorney in the jurisdiction where the order has been issued within two business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court.

(5) Every law enforcement agency in the state shall develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms or ammunition.

(d) If the respondent declines to relinquish possession of a firearm or ammunition 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 or ammunition required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of a firearm or ammunition 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 or ammunition. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm or ammunition, storing the firearm or ammunition, and surrendering possession of the firearm or ammunition to a licensed dealer as defined in Section 26700 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm or ammunition pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm or ammunition while the protective order is in effect and that the firearm or ammunition 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. This section does not 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 or ammunition pursuant to subdivision (c) shall prohibit the person from possessing or controlling a firearm or ammunition for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of the surrendered firearm or ammunition to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm or ammunition has been stolen, (2) the respondent is prohibited from possessing a firearm or ammunition because the respondent is in a prohibited class for the possession of firearms or ammunition, as defined in 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, Section 30305 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 a firearm or ammunition deposited with the local law enforcement agency and is prohibited from possessing a firearm or ammunition, the respondent shall be entitled to sell or transfer the firearm or ammunition to a licensed dealer as defined in Section 26700 of the Penal Code. If the firearm or ammunition has been stolen, the firearm or ammunition shall be restored to the lawful owner upon the owner identifying the firearm and ammunition and providing 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 or ammunition if the respondent can show that a particular firearm or ammunition 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 or ammunition is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm or ammunition shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from the place of employment. When a peace officer is required, as a condition of employment, to carry a firearm or ammunition and whose personal safety depends on the ability to carry a firearm or ammunition a court may allow the peace officer to continue to carry a firearm or ammunition, 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 or ammunition 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 or ammunition 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 or ammunition, at the location where a respondent's firearms or ammunition 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) (1) The relinquishment of a firearm to a law enforcement agency pursuant to subdivision (g) shall not be subject to the requirements of Section 27545 of the Penal Code.

(2) The return of firearms and ammunition by a law enforcement agency pursuant to this section shall be governed by the applicable provisions of Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code.

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

(m) A respondent to a protective order who violates an order issued pursuant to this section shall be punished under the provisions of Section 29825 of the Penal Code.

~~SEC. 6.~~ **SEC. 7.** Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing them from being discovered.

(4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.

(6) When there is a warrant to arrest a person.

(7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing their discovery.

(8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.

(10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.

(11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms or ammunition or both pursuant to Section 6389 of the Family Code, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm or ammunition or both as required by law.

(12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800, 29805, or 29815 and the court has made a finding pursuant to subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.

(16) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

(17) (A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code.

(ii) The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 655.1 of the Harbors and Navigation Code.

(iii) The sample will be drawn from the person in a reasonable, medically approved manner.

(B) This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(18) When the property or things to be seized consists of evidence that tends to show that a violation of paragraph (1), (2), or (3) of subdivision (j) of Section 647 has occurred or is occurring.

(19) (A) When the property or things to be seized are data, from a recording device installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury to any person. The

data accessed by a warrant pursuant to this paragraph shall not exceed the scope of the data that is directly related to the offense for which the warrant is issued.

(B) For the purposes of this paragraph, "recording device" has the same meaning as defined in subdivision (b) of Section 9951 of the Vehicle Code. The scope of the data accessible by a warrant issued pursuant to this paragraph shall be limited to the information described in subdivision (b) of Section 9951 of the Vehicle Code.

(C) For the purposes of this paragraph, "serious bodily injury" has the same meaning as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code.

(20) When the property or things to be seized consists of evidence that tends to show that a violation of Section 647.9 has occurred or is occurring. Evidence to be seized pursuant to this paragraph shall be limited to evidence of a violation of Section 647.9 and shall not include evidence of a violation of a departmental rule or guideline that is not a public offense under California law.

(21) When the property or things to be seized include a firearm or ammunition or both that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 527.9 of the Code of Civil Procedure, the person has been lawfully served with that order, and the person has failed to relinquish the firearm or ammunition or both as required by law.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), a search warrant shall not be issued for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) (A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make motions or present evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case, the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for determination by the court, any item that appears to be privileged as provided by law.

(d) (1) As used in this section, a "special master" is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable

public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or that party's designee to accompany the special master as the special master conducts the search. However, that party or that party's designee may not participate in the search nor shall they examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, "documentary evidence" includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, x-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) No warrant shall issue for any item or items that pertain to an investigation into a prohibited violation, as defined in Section 629.51.

(i) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(j) Nothing in this section is intended to limit an attorney's ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

(k) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(l) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

~~SEC. 7.~~ **SEC. 8.** Section 11108.2 of the Penal Code is amended to read:

11108.2. (a) A law enforcement agency shall enter or cause to be entered into the Department of Justice Automated Firearms System each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, surrendered pursuant to Section 26892, 28050, or 29830, relinquished pursuant to Section 527.9 of the Code of Civil Procedure, Section 6389 of the Family Code, Section 18120 of this code, or any other section of law that requires relinquishment or surrender of firearms to that law enforcement agency, or under observation, within seven calendar days after being notified of the precipitating event.

(b) Information about a firearm entered into the automated system for firearms shall remain in the system until the reported firearm has been found, recovered, is no longer under observation, or the record is determined to have been entered in error.

(c) Any costs incurred by the Department of Justice to implement subdivision (b) shall be reimbursed from funds other than fees charged and collected pursuant to Sections 28225, 28230, and 28233.

(d) As used in this section, "law enforcement agency" means a police or sheriff's department, or any department or agency of the state or any political subdivision thereof that employs any peace officer as defined in Section 830, including, but not limited to, the Department of the California Highway Patrol, the Department of Fish and

Wildlife, the University of California or California State University Police Departments, and the police department of any school district, transit district, airport, and harbor, port, or housing authority.

~~SEC. 8.~~ **SEC. 9.** Section 18120 of the Penal Code is amended to read:

18120. (a) A person subject to a gun violence restraining order issued pursuant to this division shall not have in the person's custody or control, own, purchase, possess, or receive any firearms or ammunition while that order is in effect.

(b) (1) Upon issuance of a gun violence restraining order issued pursuant to this division, the court shall order the restrained person to surrender all firearms and ammunition in the restrained person's custody or control, or which the restrained person possesses or owns pursuant to this subdivision.

(2) The surrender ordered pursuant to paragraph (1) shall occur by immediately surrendering all firearms and ammunition in a safe manner, upon request of a law enforcement officer, to the control of the officer, after being served with the restraining order. A law enforcement officer serving a gun violence restraining order that indicates that the restrained person possesses firearms or ammunition shall request that all firearms and ammunition be immediately surrendered.

(3) If the gun violence restraining order is issued as an ex parte order or order after notice and hearing, and is served by a person other than a law enforcement officer, and if no request is made by a law enforcement officer, the surrender shall occur within 24 hours of being served with the order, by surrendering all firearms and ammunition in a safe manner to the control of a local law enforcement agency, selling all firearms and ammunition to a licensed firearms dealer, or transferring all firearms and ammunition to a licensed firearms dealer in accordance with Section 29830.

(4) The law enforcement officer or licensed firearms dealer taking possession of firearms or ammunition pursuant to this subdivision shall issue a receipt to the person surrendering the firearm or firearms or ammunition or both at the time of surrender.

(5) A person ordered to surrender all firearms and ammunition pursuant to this subdivision shall, within 48 hours after being served with the order, do both of the following:

(A) File with the court that issued the gun violence restraining order the original receipt showing all firearms and ammunition have been surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer. Failure to timely file a receipt shall constitute a violation of the restraining order.

(B) File a copy of the receipt described in subparagraph (A) with the law enforcement agency, if any, that served the gun violence restraining order. Failure to timely file a copy of the receipt shall constitute a violation of the restraining order.

(6) When issuing an order pursuant to this subdivision, the court shall provide the person with information on how any firearms or ammunition still in the restrained party's possession are to be relinquished, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment. A court holding a hearing on this matter shall review the file to determine whether the receipt has been filed and inquire of the respondent whether they have complied with the requirement. Violations of the firearms prohibition of any restraining order under this section shall be reported to the prosecuting attorney in the jurisdiction where the order has been issued within two business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court. If the person does not file a receipt with the court within 48 hours after receiving the order for a registered firearm in their possession, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of a protective order, information about the firearm or ammunition, and of any other information the court deems appropriate.

(c) (1) Except as provided in paragraph (2), firearms or ammunition surrendered to a law enforcement officer or law enforcement agency pursuant to this section shall be retained by the law enforcement agency until the expiration of a gun violence restraining order that has been issued against the restrained person. Upon expiration of an order, the firearms or ammunition shall be returned to the restrained person in accordance with the provisions of Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. Firearms or ammunition that are not claimed are subject to the requirements of Section 34000.

(2) A restrained person who owns firearms or ammunition that are in the custody of a law enforcement agency pursuant to this section is entitled to sell the firearms or ammunition to a licensed firearms dealer or transfer

the firearms or ammunition to a licensed firearms dealer in accordance with Section 29830 if the firearm or firearms or ammunition are otherwise legal to own or possess and the restrained person otherwise has right to title of the firearm or firearms or ammunition.

(d) If a person other than the restrained person claims title to firearms or ammunition surrendered pursuant to this section, and the person is determined by the law enforcement agency to be the lawful owner of the firearm or firearms or ammunition, the firearm or firearms or ammunition shall be returned to the person pursuant to Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

(e) Within one business day of receiving the receipt referred to in paragraph (4) of subdivision (b), the court that issued the order shall transmit a copy of the receipt to the Department of Justice in a manner and pursuant to a process prescribed by the department.

(f) If the respondent declines to relinquish possession of a firearm or ammunition 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 or ammunition required under this section.

(g) (1) The relinquishment or surrender of a firearm to a law enforcement agency pursuant to this section or the return of a firearm to a person pursuant to this section shall not be subject to the requirements of Section 27545.

(2) Returns of firearms or ammunition pursuant to this section shall be governed by the applicable provisions of Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

SEC. 9. SEC. 10. Section 18120.5 is added to the Penal Code, to read:

18120.5. (a) When relevant information is presented to the court at any noticed hearing that a restrained person has a firearm, the court shall consider that information to determine, by a preponderance of the evidence, whether the person subject to an order defined in Section 136.2 or Division 3.2 (commencing with Section 18100) of Title 2 of Part 6 has a firearm in or subject to their immediate possession or control in violation of the order.

(b) (1) In making a determination under this section, the court may consider whether the restrained person filed a firearm relinquishment, storage, or sales receipt or if an exemption from the firearm prohibition was granted.

(2) The court may make the determination at any noticed hearing where a restraining order is issued, at a subsequent review hearing, or at any subsequent hearing while the order remains in effect.

(3) If the court makes a determination that the restrained person has a firearm in violation of the order, the court must make a written record of the determination and provide a copy to any party who is present at the hearing and, upon request, to any party not present at the hearing.

(c) (1) When presented with information under subdivision (a), the court may set a review hearing to determine whether a violation of the order has taken place.

(2) The review hearing shall be held within 10 court days after the noticed hearing at which the information was presented. If the restrained person is not present when the court sets the review hearing, the protected person must provide notice of the review hearing to the restrained person at least two court days before the review hearing, in accordance with Section 414.10 of the Code of Civil Procedure, by personal service or by mail to the restrained person's last known address.

(3) The court may for good cause extend the date of the review hearing for a reasonable period or remove it from the calendar.

(4) The court shall order the restrained person to appear at the review hearing.

(5) This section does not prohibit the court from permitting a party or witness to appear through technology that enables remote appearances, as determined by the court.

(d) The determination made pursuant to this section may be considered by the court in issuing an order to show cause for contempt pursuant to paragraph (5) of subdivision (a) of Section 1209 of the Code of Civil Procedure or an order for monetary sanctions pursuant to Section 177.5 of the Code of Civil Procedure.

SEC. 10. SEC. 11. Section 25555 of the Penal Code is amended to read:

25555. (a) Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to comply with or utilize Section 26556, 26892, 27875, 27920, 27925, 29810, or 29830, as it pertains to that firearm.

(b) Section 25400 does not apply to or affect the transportation of a firearm by a person in order to comply with paragraph (2) of subdivision (e) of Section 32000 as it pertains to that firearm.

(c) Section 25400 does not apply to, or affect the transportation of, a firearm by a person in order to comply with Section 6389 of the Family Code.

(d) Section 25400 does not apply to, or affect the transportation of, a firearm by a person in order to comply with Section 527.9 of the Code of Civil Procedure.

(e) Section 25400 does not apply to, or affect the transportation of, a firearm by a person in order to comply with Section 18120.

~~SEC. 11.~~ **SEC. 12.** Section 26379 of the Penal Code is amended to read:

26379. Paragraph (1) of subdivision (a) of Section 26350 does not apply to, or affect, the open carrying of an unloaded handgun incident to any of the following:

(a) Complying with Section 27560 or 27565, as it pertains to that handgun.

(b) Section 28000, as it pertains to that handgun.

(c) Section 27850 or 31725, as it pertains to that handgun.

(d) Complying with Section 27875, as it pertains to that handgun.

(e) Complying with or utilizing Section 26556, 26892, 27920, 27925, 29810, or 29830, as it pertains to that handgun.

(f) Complying with paragraph (2) of subdivision (e) of Section 32000, as it pertains to that handgun.

(g) Complying with Section 6389 of the Family Code, as it pertains to that handgun.

(h) Complying with Section 527.9 of the Code of Civil Procedure, as it pertains to that handgun.

~~SEC. 12.~~ **SEC. 13.** Section 26405 of the Penal Code is amended to read:

26405. Section 26400 does not apply to, or affect, the carrying of an unloaded firearm that is not a handgun in any of the following circumstances:

(a) By a person when carried within a place of business, a place of residence, or on private real property, if that person, by virtue of subdivision (a) of Section 25605, may carry a firearm within that place of business, place of residence, or on that private real property owned or lawfully occupied by that person.

(b) By a person when carried within a place of business, a place of residence, or on private real property, if done with the permission of a person who, by virtue of subdivision (a) of Section 25605, may carry a firearm within that place of business, place of residence, or on that private real property owned or lawfully occupied by that person.

(c) When the firearm is either in a locked container or encased and it is being transported directly between places where a person is not prohibited from possessing that firearm and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(d) If the person possessing the firearm reasonably believes that they are in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to the person's life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating Section 26400, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that they were in grave danger.

(e) By a peace officer or an honorably retired peace officer if that officer may carry a concealed firearm pursuant to Article 2 (commencing with Section 25450) of Chapter 2, or a loaded firearm pursuant to Article 3

(commencing with Section 25900) of Chapter 3.

(f) By a person to the extent that person may openly carry a loaded firearm that is not a handgun pursuant to Article 4 (commencing with Section 26000) of Chapter 3.

(g) As merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while engaged in the lawful course of the business.

(h) By a duly authorized military or civil organization, or the members thereof, while parading or while rehearsing or practicing parading, when at the meeting place of the organization.

(i) By a member of a club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using firearms that are not handguns upon the target ranges or incident to the use of a firearm that is not a handgun at that target range.

(j) By a licensed hunter while engaged in hunting or while transporting that firearm when going to or returning from that hunting expedition.

(k) Incident to transportation of a handgun by a person operating a licensed common carrier, or by an authorized agent or employee thereof, when transported in conformance with applicable federal law.

(l) By a member of an organization chartered by the Congress of the United States or a nonprofit mutual or public benefit corporation organized and recognized as a nonprofit tax-exempt organization by the Internal Revenue Service while on official parade duty or ceremonial occasions of that organization or while rehearsing or practicing for official parade duty or ceremonial occasions.

(m) Within a gun show conducted pursuant to Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) of Chapter 3 of Division 6.

(n) Within a school zone, as defined in Section 626.9, if that carrying is not prohibited by Section 626.9.

(o) When in accordance with the provisions of Section 171b.

(p) By a person while engaged in the act of making or attempting to make a lawful arrest.

(q) By a person engaged in firearms-related activities, while on the premises of a fixed place of business that is licensed to conduct and conducts, as a regular course of its business, activities related to the sale, making, repair, transfer, pawn, or the use of firearms, or related to firearms training.

(r) By an authorized participant in, or an authorized employee or agent of a supplier of firearms for, a motion picture, television, or video production or entertainment event, when the participant lawfully uses that firearm as part of that production or event, as part of rehearsing or practicing for participation in that production or event, or while the participant or authorized employee or agent is at that production or event, or rehearsal or practice for that production or event.

(s) Incident to obtaining an identification number or mark assigned for that firearm from the Department of Justice pursuant to Section 23910.

(t) At an established public target range while the person is using that firearm upon that target range.

(u) By a person when that person is summoned by a peace officer to assist in making arrests or preserving the peace, while the person is actually engaged in assisting that officer.

(v) Incident to any of the following:

(1) Complying with Section 27560 or 27565, as it pertains to that firearm.

(2) Section 28000, as it pertains to that firearm.

(3) Section 27850 or 31725, as it pertains to that firearm.

(4) Complying with Section 27875, as it pertains to that firearm.

(5) Complying with or utilizing Section 26556, 26892, 27920, 27925, 27966, 29810, or 29830, as it pertains to that firearm.

(6) Complying with Section 6389 of the Family Code, as it pertains to that firearm.

(7) Complying with Section 527.9 of the Code of Civil Procedure, as it pertains to that firearm.

(8) Complying with Section 18120, as it pertains to that firearm.

(w) Incident to, and in the course and scope of, training of, or by an individual to become a sworn peace officer as part of a course of study approved by the Commission on Peace Officer Standards and Training.

(x) Incident to, and in the course and scope of, training of, or by an individual to become licensed pursuant to Chapter 4 (commencing with Section 26150) as part of a course of study necessary or authorized by the person authorized to issue the license pursuant to that chapter.

(y) Incident to and at the request of a sheriff, chief, or other head of a municipal police department.

(z) If all of the following conditions are satisfied:

(1) The open carrying occurs at an auction, raffle, or similar event of a nonprofit public benefit or mutual benefit corporation at which firearms are auctioned, raffled, or otherwise sold to fund the activities of that corporation or the local chapters of that corporation.

(2) The unloaded firearm that is not a handgun is to be auctioned, raffled, or otherwise sold for that nonprofit public benefit or mutual benefit corporation.

(3) The unloaded firearm that is not a handgun is to be delivered by a person licensed pursuant to, and operating in accordance with, Sections 26700 to 26915, inclusive.

(aa) Pursuant to paragraph (3) of subdivision (b) of Section 171c.

(ab) Pursuant to Section 171d.

(ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision (c) of Section 171.7.

(ad) On publicly owned land, if the possession and use of an unloaded firearm that is not a handgun is specifically permitted by the managing agency of the land and the person carrying that firearm is in lawful possession of that firearm.

(ae) By any of the following:

(1) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 1 (commencing with Section 18710) of Division 5 of Title 2 by a person who holds a permit issued pursuant to Article 3 (commencing with Section 18900) of that chapter, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(2) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 2 (commencing with Section 30500) of Division 10 by a person who holds a permit issued pursuant to Section 31005, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(3) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 6 (commencing with Section 32610) of Division 10 by a person who holds a permit issued pursuant to Section 32650, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(4) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Article 2 (commencing with Section 33300) of Chapter 8 of Division 10 by a person who holds a permit issued pursuant to Section 33300, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(af) By a licensed hunter while actually engaged in training a dog for the purpose of using the dog in hunting that is not prohibited by law, or while transporting the firearm while going to or returning from that training.

(ag) Pursuant to the provisions of subdivision (d) of Section 171.5.

(ah) By a person who is engaged in the business of manufacturing ammunition and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while the firearm is being used in the lawful course and scope of the licensee's activities as a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and regulations issued pursuant thereto.

(ai) On the navigable waters of this state that are held in public trust, if the possession and use of an unloaded firearm that is not a handgun is not prohibited by the managing agency thereof and the person carrying the firearm is in lawful possession of the firearm.

~~SEC. 13.~~**SEC. 14.** Section 26540 of the Penal Code is amended to read:

26540. (a) Section 26500 does not apply to sales, deliveries, transfers, or returns of firearms made pursuant to any of the following:

- (1) Sections 18000 and 18005.
- (2) Division 4 (commencing with Section 18250) of Title 2.
- (3) Section 29810.
- (4) Chapter 2 (commencing with Section 33850) of Division 11.
- (5) Sections 34005 and 34010.

(b) Section 26500 does not apply to the sale, delivery, or transfer of a firearm to a dealer to comply with Section 6389 of the Family Code.

(c) Section 26500 does not apply to the sale, delivery, or transfer of a firearm to a dealer to comply with Section 527.9 of the Code of Civil Procedure.

(d) Section 26500 does not apply to the sale, delivery, or transfer of a firearm to a dealer to comply with Section 18120.

~~SEC. 14.~~**SEC. 15.** Section 28100 of the Penal Code is amended to read:

28100. (a) As required by the Department of Justice, every dealer shall keep a register or record of electronic or telephonic transfer in which shall be entered the information prescribed in Article 2 (commencing with Section 28150).

(b) This section shall not apply to any of the following transactions:

- (1) The loan of an unloaded firearm by a dealer to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.
- (2) The delivery of an unloaded firearm by a dealer to a gunsmith for service or repair.
- (3) Until January 1, 2014, the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.
- (4) The sale, delivery, or transfer of an unloaded firearm by a dealer who sells, delivers, or transfers the firearm to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.
- (5) The sale, delivery, or transfer of an unloaded firearm by a dealer to a wholesaler if that firearm is being returned to the wholesaler and is intended as merchandise in the wholesaler's business.
- (6) The sale, delivery, or transfer of an unloaded firearm by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555, if the firearm is intended as merchandise in the receiving dealer's business.
- (7) Until January 1, 2014, the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to themselves.
- (8) The loan of an unloaded firearm by a dealer who also operates a target facility which holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purpose of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or club or organization, if the firearm is kept at all times within the premises of the target range or on the premises of the club or organization.

(9) The loan of an unloaded firearm by a dealer to a consultant-evaluator, if the loan does not exceed 45 days from the date of delivery of the firearm by the dealer to the consultant-evaluator.

(10) The return of an unloaded firearm to the owner of that firearm by a dealer, if the owner initially delivered the firearm to the dealer for service or repair.

(11) The sale, delivery, or transfer of an unloaded firearm by a dealer to a person licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(12) The delivery of an unloaded firearm to a law enforcement agency pursuant to subdivision (e) or (f) of Section 28050.

(13) The delivery of an unloaded firearm to a law enforcement agency pursuant to subdivision (e) of Section 26892.

(14) The delivery of an unloaded firearm to a law enforcement agency pursuant to paragraph (3) of subdivision (f) of Section 29830.

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

SEC. 15. **SEC. 16.** Section 29810 of the Penal Code is amended to read:

29810. (a) (1) Upon conviction of any offense that renders a person subject to Section 29800, 29805, or 29815, the person shall relinquish all firearms they own, possess, or have under their custody or control in the manner provided in this section within 48 hours of the conviction if the defendant remains out of custody or within 14 days of the conviction if the defendant is in custody.

(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and ammunition feeding devices, including, but not limited to, magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that they are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control, any firearms, ammunition, and, if applicable, ammunition feeding devices, including, but not limited to, magazines, and that they shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that they owned, possessed, or had under their custody or control at the time of their conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that they owned, possessed, or had under their custody or control any firearms at the time of their conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate their consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that they are not prohibited from possessing any

firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c) (1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under their custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court and the prosecuting attorney whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) If the report of the probation officer does not confirm relinquishment of firearms registered in the defendant's name, the court shall take one of the following actions:

(A) If the court finds probable cause, after a warrant request has been submitted pursuant to Section 1524, that the defendant has failed to relinquish any firearms as required, the court shall order a search warrant for, and removal of, any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall set a court date to confirm relinquishment of all firearms. The search warrant shall be executed within 10 days pursuant to subdivision (a) of Section 1534.

(B) If the court finds good cause to extend the time for providing proof of relinquishment, the court shall set a court date within 14 days for the defendant to provide proof of relinquishment.

(C) If the court finds additional investigation is needed, the court shall refer the matter to the prosecuting attorney and set a court date within 14 days for status review.

(4) Prior to final disposition or sentencing in the case, the court shall confirm that the defendant has relinquished all firearms as required, and that the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under their custody or control within 48 hours of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under their custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within 48 hours following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 48 hours following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the 48-hour period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under their custody or control within 14 days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under their custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under their custody or control any firearms to relinquish, they shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to be relinquished.

(4) If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following their release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

(k) If a person declines to relinquish possession of a firearm or ammunition 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 or ammunition required under this section.

~~SEC. 16.~~**SEC. 17.** Section 29830 of the Penal Code is amended to read:

29830. (a) A person who is prohibited from owning or possessing a firearm, ammunition feeding device, or ammunition pursuant to any law, may transfer or cause to be transferred, any firearm, ammunition feeding device, or ammunition in their possession, or of which they are the owner, to a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, or may transfer ammunition to an ammunition vendor, licensed pursuant to Sections 30385 to 30395, inclusive, for storage during the duration of the prohibition, if the prohibition on owning or possessing the firearm, ammunition feeding device, or ammunition will expire on a specific ascertainable date, whether or not specified in the court order, or pursuant to Section 29800, 29805, or 29810.

(b) A firearms dealer or ammunition vendor who stores a firearm, ammunition feeding device, or ammunition pursuant to subdivision (a), may charge the owner a reasonable fee for the storage of the firearm, ammunition feeding device, or ammunition.

(c) A firearms dealer or ammunition vendor who stores a firearm, ammunition feeding device, or ammunition pursuant to subdivision (a) shall notify the Department of Justice of the date that the firearms dealer or ammunition vendor has taken possession of the firearm, ammunition feeding device, or ammunition.

(d) Any firearm that is returned by a dealer to the owner of the firearm pursuant to this section shall be returned in accordance with the procedures set forth in Section 27540 and Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6.

(e) Any ammunition that is returned by a firearms dealer or ammunition vendor to the owner of the ammunition pursuant to this section shall be returned in accordance with the procedures set forth in Article 4 (commencing with Section 30370) of Chapter 1 of Division 10.

(f) If the dealer cannot legally return the firearm to the owner, then the following procedure shall apply:

(1) The owner of the firearm may request, and the dealer shall grant, that the dealer retain possession of the firearm for a period of up to 45 days so that the owner may designate a person to take possession of that firearm in accordance with Section 27540. This 45-day period shall be in addition to the waiting period described in Sections 26815 and 27540, and any time necessary to process a transaction.

(2) If, before the end of the 45-day period, the owner designates a person to receive the firearm and that person completes an application to purchase, the dealer shall process the transaction in accordance with the provisions of Section 27540.

(3) If the owner of the firearm does not request that the firearm be held by the dealer pursuant to this subdivision, the firearm cannot be delivered to the designated person, or if the 45-day period expires without action by the person loaning the firearm, the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county where the dealership is located, who shall then dispose of the firearm in the manner provided by Sections 18000, 18005, and 34000.

(g) If the dealer or ammunition vendor cannot legally return the ammunition or ammunition feeding device, then the following procedure shall apply:

(1) The owner of the ammunition may request, and the dealer or ammunition vendor shall grant, that the dealer or ammunition vendor retain possession of the ammunition for a period of up to 45 days so that the owner of the ammunition or ammunition feeding device may designate a person to take possession of that ammunition.

(2) If, before the end of the 45-day period, the owner of the ammunition or ammunition feeding device designates a person to receive the ammunition and ammunition feeding device the ammunition and ammunition feeding device shall be transferred by that firearms dealer or ammunition vendor to the new owner of the same in accordance with the procedures set forth in Article 4 (commencing with Section 30370) of Chapter 1 of Division 10.

(3) If, before the end of the 45-day period, the only property is an ammunition feeding device, the owner designates a person to receive the ammunition feeding device, it shall be transferred by that firearms dealer or ammunition vendor to the new owner of the same in accordance with any procedures, if any, set forth by the Department of Justice.

(4) If the owner of the ammunition or ammunition feeding device, or both, does not request that the ammunition or ammunition feeding device, or both, be held by the dealer or ammunition vendor pursuant to this subdivision or the ammunition or ammunition feeding device, or both, cannot be delivered to the designated person, or the 45-day period expires without action by the owner, the dealer or ammunition vendor shall forthwith deliver the ammunition or ammunition feeding device, or both, to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county where the dealership is located, who shall then dispose of the ammunition or ammunition feeding device in the manner provided by Sections 18000, 18005, and 34000.

~~SEC. 17.~~**SEC. 18.** Section 30342 of the Penal Code is amended to read:

30342. (a) Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.

(b) Subdivision (a) does not apply to, or affect the sale of, ammunition to a person who holds a valid ammunition vendor license by a person in order to comply with Section 6389 of the Family Code.

(c) Subdivision (a) does not apply to, or affect the sale of, ammunition to a person who holds a valid ammunition vendor license by a person in order to comply with Section 527.9 of the Code of Civil Procedure.

(d) Subdivision (a) does not apply to, or affect the sale of, ammunition to a person who holds a valid ammunition vendor license by a person in order to comply with Section 18120.

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

~~SEC. 18.~~**SEC. 19.** The Legislature finds and declares that the following amendments in this act do not constitute a change in, but are declaratory of, existing law:

(a) The amendments made to Section 6389 of the Family Code.

(b) The amendments made to paragraphs (11) and (15) of subdivision (a) of Section 1524 of the Penal Code.

(c) The amendments made to Section 28100 of the Penal Code.

(d) The amendments made to Section 29810 of the Penal Code.

(e) The amendments made to Section 29830 of the Penal Code.

SEC. 20. *If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.*

From: [Del Rosario, Mick \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Stefani, Catherine \(BOS\)](#); [Donovan, Dominica \(BOS\)](#)
Subject: SCS Introduction (3/26): Resolution - Strengthening CA Red Flag Laws
Date: Tuesday, March 26, 2024 1:43:29 PM
Attachments: [Bill Text - SB-899 Protective orders firearms .pdf](#)
[SCS - Introduction Form - Reso Supporting SB 899 - 2024.03.26.pdf](#)
[2024.03.26 - Resolution - Supporting SB 899 - Strengthening CA Red Flag Laws.docx](#)

Dear Clerk Staff,

Please see the attached resolution for introduction from Supervisor Stefani for the 3/26 regular meeting. This matter is not contentious in nature.

The California State Association of Counties and the League of California Cities currently has a 'Watch' position on the bill.

Thank you!

Mick Del Rosario | Legislative Aide
Office of Supervisor Catherine Stefani
San Francisco Board of Supervisors, District 2
City Hall, Room 273
(415) 554-7752
www.sfbos.org/Stefani

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Stefani

Subject:

Supporting California State Senate Bill No. 899 (Skinner and Blakespear) - Strengthening California's Red Flag Laws

The text is listed:

Resolution Supporting California State Senate Bill No. 899, introduced by Senators Skinner and Blakespear, to Strengthen California's 'Red Flag' Laws.

Signature of Sponsoring Supervisor: /s/ Catherine Stefani

For Clerk's Use Only