California State Assembly

PUBLIC SAFETY

REGINALD BYRON JONES-SAWYER SR.
CHAIR

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AGENDA

Tuesday, April 25, 2023
9 a.m. -- State Capitol, Room 126

REGULAR ORDER OF BUSINESS

HEARD IN SIGN-IN ORDER

LIMITED TESTIMONY FOR SUPPORT AND OPPOSITION

1.	AB 36	Gabriel	Domestic violence protective orders: possession of a firearm.
2.	AB 522	Kalra	State departments: investigations and hearings: administrative subpoenas.
3.	AB 695	Pacheco	Juvenile Detention Facilities Improvement Grant Program.
4.	AB 702	Jackson	PULLED BY AUTHOR
5.	AB 732	Mike Fong	Crimes: relinquishment of firearms.
6.	AB 733	Mike Fong	Firearms: sale by government entity.
7.	AB 762	Wicks	California Violence Intervention and Prevention Grant Program.
8.	AB 791	Ramos	Postconviction bail.
9.	AB 818	Petrie-Norris	Protective orders.
10.	AB 1125	Hart	Vehicle Code: infractions.
11.	AB 1209	Jones-Sawyer	Criminal procedure: public defenders.
12.	AB 1402	Megan Dahle	Medical evidentiary examinations: reimbursement.
13.	AB 1420	Berman	Firearms.
14.	AB 1497	Haney	Criminal procedure.
15.	AB 1519	Bains	Vehicles: catalytic converters.
16.	AB 1559	Jackson	Elections.
17.	AB 1647	Soria	Veterans treatment courts: grant program.
18.	ACA 8	Wilson	Slavery.

COVID FOOTER

SUBJECT:

All witness testimony will be in person; there will be no phone testimony option for this hearing. You can find more information at www.assembly.ca.gov/committees.

Date of Hearing: April 25, 2023
Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 522 (Kalra) – As Introduced February 7, 2023

SUMMARY: Establishes procedures that the state must follow to administratively subpoena a person's electronic communication information. Specifically, **this bill**:

1) Establishes the following conditions that a state department must satisfy before it can obtain a customer's electronic communication information from a service provider using an administrative subpoena:

   a) The department must properly serve the customer with notice of the administrative subpoena, following specified procedures;

   b) A copy of the administrative subpoena must be attached to the notice;

   c) The administrative subpoena must include the department's name and the statutory purpose for obtaining the electronic communication information;

   d) The notice must include the following statement: "The attached subpoena was served on a communication service provider to obtain your electronic communication information. The service provider has made a copy of the information specified in the subpoena. Unless you (1) move to quash or modify the subpoena within 10 days of service of this notice, and (2) notify the service provider that you have done so, the service provider will disclose the information pursuant to the subpoena"; and,

   e) The department must serve a proof of service on the service provider that states that the department has complied with the above conditions.

2) Requires the service provider to produce the electronic communication information specified in an administrative subpoena 10 days or more after being served, unless the customer has notified the service provider that a motion to quash or modify the subpoena has been filed.

3) Requires a court, if a customer files a motion to quash or modify an administrative subpoena, to give the motion priority on its calendar and to hear the matter within 10 days of the filing of the motion.

4) Provides that a service provider need not inquire into, or determine that, a state department has complied with these requirements if the department provides the service provider with documents showing compliance.

5) Provides that a service provider may notify a customer that it has received an administrative subpoena for the customer's electronic communication information.

6) Requires service providers to maintain, for a period of five years, a record of any disclosure of a customer's electronic communication information and to provide this record to the customer upon payment of the reasonable cost of reproduction and delivery.

7) Defines "customer" as a person or entity that receives an electronic communication service from a service provider.

8) Defines "electronic communication" as the transfer of signs, signals, writings, images, sounds, data, or intelligence, whether in whole or in part, by a wire, radio, electromagnetic, photoelectric, or photo-optical system.

9) Defines "electronic communication information" as information about an electronic communication, including but not limited to, its contents, sender, recipients, or format; the location of the sender or recipients; the time or date the communication was created or sent; or any other information pertaining to any individual or device participating in the communication, including Internet Protocol (IP) addresses.

10) Defines "service provider" as a person or entity that offers an electronic communication service.

EXISTING FEDERAL LAW:Provides that the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized. (U.S. Const., 4th Amend.)

EXISTING STATE LAW:

1) Provides that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. (Cal. Const., art. I, § 13.)

2) Provides that all people are by nature free and independent and have inalienable rights, including privacy. (Cal. Const., Art. I, § 1.)

3) Establishes the California Electronic Communications Privacy Act (CalECPA), which generally prohibits a government entity from compelling the production of, or access to, electronic communication information without a warrant, wiretap order, an order for electronic reader records, a subpoena, or an order for a pen register or trap and trace device. CalECPA also provides the target whose information is sought the ability to void or modify the warrant or order. (Pen. Code §§ 1546-1546.5.)

4) Defines a "search warrant" as a written order in the name of the people, signed by a magistrate and directed to a peace officer, commanding them to search for a person or persons, a thing or things, or personal property, and in the case of a thing or things or personal property, bring the same before the magistrate. (Pen. Code, § 1523.)

5) Provides the specific grounds upon which a search warrant may be issued, including when the property or things to be seized consist of any item or constitute any evidence that tends to

show a felony has been committed, or tends to show that a particular person has committed a felony. (Pen. Code, § 1524.)

6) Provides that a search warrant cannot be issued but 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. (Pen. Code, § 1525.)

7) Requires a magistrate to issue a search warrant if they are satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence. (Pen. Code, § 1528, subd. (a).)

8) Requires a provider of electronic communication services or remote computing services to disclose to a governmental prosecuting or investigating agency the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of that service, and the types of services the subscriber or customer utilized, when the governmental entity is granted a search warrant. (Pen. Code, § 1524.3, subd. (a).)

9) States that a governmental entity receiving subscriber records or information is not required to provide notice of the warrant to a subscriber or customer. (Pen. Code, § 1524.3, subd. (b).)

10) Authorizes a court issuing a search warrant, on a motion made promptly by the service provider, to quash or modify the warrant if the information or records requested are unusually voluminous in nature, or if compliance with the warrant otherwise would cause an undue burden on the provider. (Pen. Code, § 1524.3, subd. (c).)

11) Requires a provider of wire or electronic communication services or a remote computing service, upon the request of a peace officer, to take all necessary steps to preserve records and other evidence in its possession pending the issuance of a search warrant or a request in writing and an affidavit declaring an intent to file a warrant to the provider. Records shall be retained for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the peace officer. (Pen. Code, § 1524.3, subd. (d).)

12) Specifies that no cause of action shall be brought against any provider, its officers, employees, or agents for providing information, facilities, or assistance in good faith compliance with a search warrant. (Pen. Code, § 1524.3, subd. (e).)

13) Provides for a process for a search warrant for records that are in the actual or constructive possession of a foreign corporation that provides electronic communication services or remote computing services to the general public, where the records would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent or from those customers, or the content of those communications. (Pen. Code, § 1524.2.)

14) Provides that it is the state's policy to divide the work of executing and administering its laws into departments. (Gov. Code § 11150.)

15) Empowers state department heads to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, any writing (as that term is defined under

the Evidence Code), tangible things, and testimony pertinent or material to any inquiry, investigation, hearing, proceeding, or action conducted in any part of the state. (Gov. Code § 11181, subd. (e).)

16) Requires, pursuant to the California Right to Financial Privacy Act, that when a financial institution is served with an administrative subpoena requesting the customer's records, the customer be given adequate notice and an opportunity to bring a motion to quash the subpoena. (Gov. Code § 7474.)

17) Requires a consumer, as defined, whose personal records are being subpoenaed from a third party to be given notice and an opportunity to object to the production of their records. (Code Civ. Proc. § 1985.3, subd. (b).)

18) Authorizes designated persons who are commanded by a subpoena to produce books, documents, or other items to bring a motion in court to quash or modify the subpoena. (Code Civ. Proc. § 1987.1.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "As a member of the California Law Revision Commission, consumer protection has continued to be a priority for me to protect vulnerable people. AB 522 would provide greater protection to consumers when the government subpoenas their electronic records via a communications company. Although consumers are in their right to exercise the Fourth Amendment, administrative subpoenas do not grant the consumer adequate time to seek judicial review of the reasonableness of the search before any records are produced. By extending these protections already applied to financial institutions, AB 522 will further protect consumers' constitutional rights before the state intrudes on their privacy."

2) **Background:** This bill originates with the California Law Revision Commission (Commission). Ten years ago, the Legislature enacted Senate Concurrent Resolution 54 (Padilla, Chap. 115, Stats. 2013) (SCR 54), which directed the Commission to recommend to the Legislature how best to "revise statutes governing access by state and local government agencies to customer information from communications service providers" so that these statutes met specified requirements, including safeguarding customers' constitutional rights, accommodating mobile and Internet-based technologies, and enabling state and local government agencies to protect public safety.

   Two years later, many of SCR 54's requirements were met, and much of the need for Commission action in this area obviated, when the Legislature enacted SB 178 (Leno, Chap. 651, Stats. 2015), the California Electronic Communications Privacy Act (CalECPA). CalECPA established a legal framework governing how state and local law enforcement agencies could lawfully obtain nearly every form of electronic communications and related data, whether stored in a physical device belonging to a person or in equipment owned or operated by a service provider. Information covered by CalECPA ranges from records of whom a person has spoken to on the phone; to the content of text messages, emails, and voicemails; to metadata such as a person's location when answering their phone. At its core,

CalECPA requires law enforcement agencies to have a search warrant in order to obtain such information. CalECPA also requires that the target of the warrant be given adequate notice (in emergency circumstances, notice can be provided after the fact) and authorizes that person to petition to void or modify the warrant, as well as to move to suppress evidence obtained in violation of the law's requirements.

As observed by the Commission, "[CalECPA] addressed nearly all of the legal deficiencies that the Commission had identified in its study." (Cal. L. Revision Comm'n Preprint Recommendation #G-300 (June 21, 2022) p. 1 (CLRC Report), <http://clrc.ca.gov/pub/Printed-Reports/RECpp-G300.pdf> [last visited Apr. 17, 2023].) Nevertheless, the Commission added, "a few minor matters [have] not been addressed by CalECPA[.]" (*Ibid.*) This bill would address one of these unaddressed matters: establishing procedures through which the state may administratively subpoena a customer's electronic communications information in a manner that satisfies constitutional due process requirements.

3) **Administrative Subpoenas:** In criminal and civil court cases, it is common for parties to exercise the court's authority to subpoena—this is, order the production of—records in the possession of third parties who are not otherwise involved in the case. The purpose of issuing such a subpoena, known as a subpoena *duces tecum* ("bring with you under penalty of law"), is to obtain evidence. Take the example of injured workers who sue their employer for failing to provide adequate protective gear. In defending itself, the employer would ordinarily use a subpoena *duces tecum* to obtain medical records from doctors who treated the workers, to learn more information about the workers' injuries. (See generally Code Civ. Proc. §§ 1985-1997.)

A subpoena *duces tecum* may also be used to obtain evidence in an administrative proceeding, i.e., an investigation or an enforcement action brought by a state agency, rather than a dispute decided in court. In this context, subpoenas *duces tecum* are commonly known as "administrative subpoenas."[1]

The types of proceedings in which administrative subpoenas can be used vary widely, reflecting the many issues addressed by California state agencies. For example, the California Court of Appeal recently upheld the power of the State Water Resources Control Board to subpoena financial documents in order to determine the relationship between entities being investigated for water quality violations. (*State Water Resources Control Bd. v. Baldwin & Sons, Inc.* (2020) 45 Cal.App.5th 40.) In a much older case, the California Supreme Court authorized the issuance of administrative subpoenas in disciplinary hearings before the State Board of Medical Examiners. (*Shively v. Stewart* (1966) 65 Cal.2d 475.)

State agencies are granted general authority to issue administrative subpoenas under Government Code section 11181:

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[1] Throughout this analysis, the term "state agency" is intended to apply to any part of the executive branch, whether an agency, department, board, committee, or commission, that possesses administrative subpoena power under statute.

> In connection with any investigation or action authorized by this article, the department head may do any of the following:
>
> [...]
>
> (e) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, any writing..., tangible things, and testimony pertinent or material to any inquiry, investigation, hearing, proceeding, or action conducted in any part of the state.

Specific statutes may also provide procedures for issuing administrative subpoenas for particular types of information. For example, the California Right to Financial Privacy Act (CRFPA), regulates government access to customer records held by financial institutions. (See Gov. Code §§ 7460-7493.) A state or local agency that wishes to obtain customer records held by financial institutions, e.g., to investigate alleged fraud or elder abuse, must follow the procedures in the CRFPA, rather than Government Code section 11181, in order to administratively subpoena such records.

4) **Constitutional Requirements for a Valid Administrative Subpoena:** The United States Supreme Court has recognized the lawfulness of administrative subpoenas. (*See v. Seattle* (1967) 387 U.S. 541, 544-545.) But people and entities whose records are sought via an administrative subpoena are nevertheless protected by the Fourth Amendment's prohibition against unreasonable searches and seizures. The California Supreme Court has interpreted the Fourth Amendment as requiring that "the inquiry [in an administrative subpoena] be one which the agency demanding production is authorized to make, that the demand be not too indefinite, and that the information sought be reasonably relevant." (*Brovelli v. Superior Court* (1961) 56 Cal.2d 524, 529.)

   Moreover, according to the U.S. Supreme Court, "while the demand to inspect may be issued by the agency, in the form of an administrative subpoena, it may not be made and enforced by the inspector in the field, and the subpoenaed party may obtain judicial review of the reasonableness of the demand prior to suffering penalties for refusing to comply." (*See, supra*, 387 U.S. at p. 544-545.)

   In other words, to meet constitutional standards, an administrative subpoena must make an inquiry for records (i) that the state agency is authorized to make, (ii) that is sufficiently definite, and (iii) that is reasonably relevant to the purposes for which the inquiry is made. The person whose records are being subpoenaed must also have an opportunity to seek judicial review of the administrative subpoena.

   This latter requirement can be met by ensuring that the person whose records are being sought has sufficient notice of the subpoena and the ability to move a court to quash (i.e., invalidate) or modify the subpoena, as provided for by this bill.

5) **Need for the Bill:** Among the third-party records that a state agency may seek to obtain using an administrative subpoena are records of electronic communications. As explained by the California Law Review Commission:

> [W]hen a subpoena is served on a communication service provider for access to a customer's records…the customer may not be notified of the subpoena and might have no real opportunity to object before records are produced. That would undermine or negate…the constitutionality of a search by administrative subpoena.
>
> In particular, if the customer is not separately notified of the subpoena, then only the communication service provider will have an opportunity to object to the subpoena through an adversarial judicial process. That will often be insufficient to protect the interests of the customer, because the interests of the service provider and customer are not the same. The service provider will mostly be concerned with unreasonable burdens created by the subpoena; the customer is concerned with privacy. (CLRC Report, *supra*, at p. 3)

The issue, then, is that a person may have a legal basis to quash or modify an administrative subpoena seeking their electronic communications information but, under current law, they will not be informed of the subpoena. While their communications provider will be notified, the provider likely has no interest in resisting the subpoena and/or may be unaware of the customer's legal basis for doing so. This arguably violates the customer's due process rights. Per the California Law Review Commission:

> In order to ensure that the use of an administrative subpoena to obtain customer records from a communication service provider is constitutional, the customer must be given notice and an opportunity to challenge the subpoena in court before the customer's records are produced. (CLRC report, *supra*, at p. 3.)

In order to remedy this deficiency, this bill would require a subpoenaing agency, when an administrative subpoena is served on a communication service provider to obtain customer records, to serve notice of the subpoena on the affected customer. The notice must include a copy of the subpoena and a specified advisory statement, which states:

> The attached subpoena was served on a communication service provider to obtain your electronic communication information. The service provider has made a copy of the information specified in the subpoena. Unless you (1) move to quash or modify the subpoena within 10 days of service of this notice, and (2) notify the service provider that you have done so, the service provider will disclose the information pursuant to the subpoena.

This bill would require the service provider to make and retain a copy of the requested records until the subpoena operates or is quashed. It also requires that a state agency serve proof of service of the notice to the customer on the communication service provider. Moreover, unless the customer first moves to quash the subpoena and notifies the service provider of that fact, the service provider must produce the requested records no sooner than 10 days after the proof of service is served on it.

6) **Implications for Due Process and Privacy Protections:** The process this bill establishes would appear to meet constitutional due process standards by giving the person whose records are being subpoenaed sufficient notice of the records being sought, so that the person has an opportunity to move a court to modify or quash the subpoena.

The 10-day notice requirement in this bill is identical to the notice period in at least two other

pertinent California laws that govern subpoenas of a person's information from third parties. Gov. Code § 7474; Code Civ. Proc. § 1985.3.) The fact that the processes established by these statutes have remained in effect for over four decades suggests that the ten-day notice period under this bill will be found to provide adequate due process protections.

7) **Argument in Support**: According to the *California Law Revision Commission*, "Assembly Bill 522 (Kalra), would implement a recommendation of the California Law Revision Commission on State and Local Agency Access to Electronic Communications: Notice of Administrative Subpoena (March 2022).

"The California Law Revision Commission has been directed to prepare proposed legislation on government access to customer records of communication service providers, in order to protect customers' constitutional rights.

"Most of the areas for possible reform that the Commission identified were addressed by the California Electronic Communication Privacy Act ("Cal-ECPA"), which was enacted before the Commission could complete its work on this study.

"This recommendation addresses one issue that was not resolved by Cal-ECPA, the need for notice to a customer when an administrative subpoena is served on a communication service provider to obtain the customer's information. The proposed law would require such notice."

8) **Related Legislation**: AB 793 (Bonta), would prohibit a government entity from seeking or obtaining information from a reverse-location demand or a reverse-keyword demand, and prohibits any person or government entity from complying with a reverse-location demand or a reverse-keyword demand. AB 793 is pending hearing in the Assembly Judiciary Committee.

9) **Prior Legislation**:

   a) AB 1242 (Bauer-Kahan), Chapter 627, Statutes of 2022, among other things, amended CalECPA to prohibit corporations incorporated in, or whose principal offices are located in, California from providing information in response to a warrant or other legal process if the process relates to an investigation into, or enforcement of, a law creating liability for providing, facilitating, or obtaining an abortion that is legal under California law.

   b) AB 928 (Grayson), of the 2019-2020 Legislative Session, would have created a CalECPA exemption by allowing law enforcement to use an administrative subpoena, rather than a warrant, to obtain information regarding a subscriber suspected of engaging in the exploitation or attempted exploitation of a child. AB 928 failed passage in the Assembly Public Safety Committee.

   c) SB 811 (Committee on Public Safety), Chapter 269, Statutes of 2017, createed an exception to CalECPA's notice requirements if a government entity accesses information concerning the location or the telephone number of an electronic device in order to respond to an emergency 911 call from that device.

   d) AB 165 (Cooper), of the 2017-2018 Legislative Session, would have created a CalECPA exemption by allowing local educational agencies to access information from electronic

devices belonging to students enrolled in kindergarten through 12th grade. AB 165 failed passage in the Assembly Public Safety Committee.

e) SB 1121 (Leno), Chapter 541, Statutes of 2016, made a number of minor amendments to CalECPA in order to address unintended consequences and outstanding stakeholder concerns.

f) SB 178 (Leno), Chap. 651, Statutes of 2015, enacted CalECPA.

REGISTERED SUPPORT / OPPOSITION:

Support

California Law Revision Commission

Opposition

None submitted.

Analysis Prepared by: Andrew Ironside / PUB. S. / (916) 319-3744

Date of Hearing: April 25, 2023
Chief Counsel: Sandy Uribe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 695 (Pacheco) – As Introduced February 13, 2023

As Proposed to be Amended in Committee

SUMMARY: Establishes the Juvenile Detention Facilities Improvement Grant Program to address the inadequate and dilapidated state of county juvenile detention facilities. Specifically, **this bill**:

1) Establishes the Juvenile Detention Facilities Improvement Grant Program within the Office of Youth and Community Restoration (OYCR) to provide grants, pursuant to this chapter, to a county of the first class to address the critical infrastructure needs of the state's supervised youth who are detained in county facilities.

2) Defines "county of the first class" as "counties containing a population of 4,000,000 and over."

3) Requires the OYCR to award grants based on the priorities for infrastructure improvement.

4) Requires the OYCR to establish minimum standards, funding schedules, and procedures for awarding the grants which shall prioritize the projects with the highest critical infrastructure need.

5) States that to be eligible for the grants, a county of the first class must prepare a facilities improvement plan for the expenditure of funds for capital improvements that are necessary to preserve and protect the county's juvenile detention facilities to enhance each facility's rehabilitation function.

6) Requires the plan to include a description of how it will contribute to the county's ability to provide trauma-informed, culturally appropriate programming in a home-like environment.

7) Provides that funds shall only be used for:

   a) Newly-constructed living space for youths;

   b) Projects that would modernize housing units and sleeping rooms to comply with existing building standards and achieve a homelike environment; or,

   c) Space to provide rehabilitative or educational programming for youths.

8) States that facility improvements made as part of this grant program cannot result in a new increase in county rated capacity.

9) States that the plan must be submitted to, and approved by, both the OYCR and the governing body of the county.

10) Requires the OYCR to disburse awarded funds to the governing body of the county.

11) Mandates the OYCR submit a report to the Legislature, on or before January 1, 2025, detailing the grants awarded and the projects funded through the program.

12) Appropriates an unspecified amount from the General Fund for purposes of providing grants under this program.

13) States that a special statute is necessary because of the unique need to address the significant problems of inadequate and dilapidated juvenile facilities in Los Angeles County.

14) Contains legislative findings and declarations, and a statement of legislative intent.

EXISTING LAW:

1) Requires the board of supervisors in every county to provide and maintain, at county expense, in a location approved by the presiding judge of the juvenile court, a suitable house or place for the detention of wards and dependent children of the juvenile court and of persons alleged to come within the jurisdiction of the juvenile court. Such house or place shall be known as the "juvenile hall." (Welf. & Inst. Code, § 850.)

2) Provides that juvenile halls shall not be deemed to be, nor be treated as, penal institutions and that juvenile halls shall be safe and supportive homelike environments. (Welf. & Inst. Code, § 851.)

3) States that the juvenile hall shall be under the management and control of the probation officer. (Welf. & Inst. Code, § 852.)

4) Requires the Board of State and Community Corrections (BSCC) to adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors. (Welf. & Inst. Code, § 210.)

5) Establishes the OYCR in the California Health and Human Services Agency, whose mission is to promote trauma responsive, culturally informed services for youth involved in the juvenile justice system that support their successful transition to adulthood and help them become responsible, thriving, and engaged members of the community. (Welf. & Inst. Code, § 2200, subds. (a) & (b).)

6) Requires the OYCR to have an ombudsman who shall have the authority to investigate complaints from youth, families, staff, and others about harmful conditions or practices, violations of law and regulations governing facilities, and circumstances presenting an emergency. (Welf. & Inst. Code, § 2200, subd. (d).)

7) Defines "physical confinement" as placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home, or in a secure youth treatment facility, or in any institution operated by the California Department of Corrections and Rehabilitation, Division of Juvenile Justice

(DJJ). (Welf. & Inst. Code, § 726, subd. (d)(5).)

8) Authorizes the juvenile court judge, when a minor is adjudged a ward of the court, to commit the minor to a juvenile home, ranch, camp, or forestry camp. If there is no county juvenile home, ranch, camp, or forestry camp within the county, the court may commit the minor to the county juvenile hall. (Welf. & Inst. Code, § 730, subd. (a)(1).)

9) Provides that on or after July 1, 2021, a ward of the juvenile court shall not be committed to the DJJ, except as specified. (Welf. & Inst. Code, § 733.1, subd. (a).)

10) Defines "secure youth treatment facility" as a secure facility that is operated, utilized, or accessed by the county of commitment to provide appropriate programming, treatment, and education for wards having been adjudicated for specified offenses. (Welf. & Inst. Code, § 875, subd. (g)(1).)

11) Provides that all juvenile justice grant administration functions in the BSCC shall be moved to the OYCR no later than January 1, 2025. (Welf. & Inst. Code, § 2200, subd. (f).)

12) Establishes the Regional Youth Programs and Facilities Grant program, which appropriates $9,600,000 to award one-time grants to counties for the purposes of providing resources for infrastructure related needs and improvements to counties. (Welf. & Inst. Code, § 2200, subds. (a).)

13) Establishes the Juvenile Justice Realignment Block Grant program for the purpose of providing county based custody, care, and supervision of youth who are realigned from the DJJ. (Welf. & Inst. Code, § 1990.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Los Angeles Probation Department is staffed by thousands of dedicated public servants who have committed their professional lives to achieving successful outcomes for the youth they serve. However, with independent reports dating back ten years outlining the critical need for major infrastructure improvements and current research forming the bases of a true trauma-informed care model, it is well past the time to make substantial renovations. Further, it is past time to modernize the training of probation officers to assure that they have the skills necessary to provide care-first, trauma informed rehabilitative services for youth and young adults remanded to their care by the courts.

   "The Los Angeles Probation Department's juvenile detention facilities are badly outdated and in need of critical renovations with almost all of its physical plants in significant dilapidation. In their current state, LA Probation facilities are not adequate to meet the basic State law requirement of a "homelike" environment much less meet the current care-first, intensive rehabilitation model that juvenile justice requires.

   "It is our responsibility to ensure that every possible effort is made to provide a positive outcome for youth that have been remanded to the care of our probation department. This

measure exposes an honest and blunt truth: the tools and facilities are hindering the ability to provide the care these kids deserve.

"Assembly Bill 695 will ensure that our justice-involved youth have the tools needed for their rehabilitation – they deserve no less."

2) **Condition of Los Angeles County Juvenile Halls**: There are currently two juvenile halls operating in Los Angeles County: Central Juvenile Hall in central Los Angeles and Barry J. Nidorf in Sylmar. In 2013-2014, the Los Angeles County Civil Grand Jury inspected the conditions of the facilities at the county's juvenile halls, including both Central and Nidorf. (See *Maintenance Issues and Living Conditions at Juvenile Halls, 2013-2014 Los Angeles County Civil Grand Jury Final Report*, (hereinafter CGY Report), p. 179, 2013-2014_Final.pdf (la.ca.us) [as of March 12, 2023].)

The Central Juvenile Hall is the oldest of the juvenile facilities operated in Los Angeles County. The Central Juvenile Hall complex was originally established in 1912 as the first juvenile detention facility in Los Angeles County. (CGY Report, *supra*, p. 183.) An *inspection of the girls secured housing unit, revealed:*

> [C]eiling tiles in the corridor had been removed and not replaced. One cell in the Girls SHU [special handling unit] was uninhabited due to leaking pipes that seeped water into the corridor. Bath towels and duct tape were used in a futile attempt to repair broken pipes and prevent seepage. There was an indistinct foul odor in the hallway suggesting that sewage or stagnant water was present. (*Id.* at pp. 183-184.)

As to the boys SHU, the report noted, "The Boys SHU was clean but poorly lighted. Windows were etched so severely that it was impossible to see inside some of the individual cells, none of which had toilets or sinks." (*Id.* at p. 184.)

The grand jury report called for the facilities to be torn down and a new facility built in its place:

> Central Juvenile Hall is in severe disrepair. It is a financial drain on the maintenance budget of the Probation Department. Constant need for repairs of basic utilities and infrastructure is costly. Rather than keeping the site operational through on-going remedial repairs, the Probation Department would save money and better serve the minors with a modern facility. Replacing the facility would alleviate safety issues caused by the present dilapidated buildings. (*Id.* at p. 185.)

Barry J. Nidorf Juvenile Hall houses both general population minors as well as minors classified as high-risk offenders. (CGY Report, *supra*, p. 186.) According to a letter submitted by the sponsors of this bill, Nidorf Juvenile Hall "is the largest and most jail-like County-run youth juvenile facility in the nation." When the Civil Grand Jury inspected the facilities in 2013, it found, "The housing units visited by the sub-committee were clean and sanitary. Showers were operable and void of mold and soap residue. The units that housed minors were configured in a dorm setting with a central intake area where initial processing

occurs." (*Id.* at p. 186.) [1] Several of the housing units were being painted at the time and new beds which were constructed without bars to prevent suicides were being installed. (*Id.* at p. 187.) The inspection reported noted that some areas needed attention, including repairs to the flooring in both the girls and boys gyms, as well as holes, erosion, and rust on the roof throughout the facilities. (*Ibid.*)

On April 13, 2023, the BSCC gave the county another month to fix the juvenile halls or be shut down. (J. Henry, *State Gives LA County Another Month to Fix Juvenile Halls*, Orange County Register, April 13, 2023, State gives LA County another month to fix juvenile halls or be shut down – Orange County Register (ocregister.com)) And recently, the Chief Probation Officers of California issued a press release asking state and county leaders to put Los Angeles County's juvenile facilities into a narrowly tailored court receivership. (https://www.cpoc.org/post/chief-probation-officers-california-call-immediate-limited-court-receivership-los-angeles [as of April 16, 2023.)

3) **Juvenile Justice Facilities Requirements**: California juvenile facilities must comply with physical plant and facility requirements set forth in California Code of Regulations Title 15 (Minimum Standards for Local Detention Facilities) and Title 24 (Building Standards Code). The physical plant requirements for juvenile halls are dependent on when the facility was activated - some facilities have to comply with the 1998 version of Title 24, others have to comply with more recent versions. Counties that choose to close their halls, even if only temporarily, may have to comply with more updated regulations if they decide to reopen. (*See Juvenile Justice Facilities in California: Report and Toolkit*, California State Association of Counties, Nov. 2019, p. 22.)

The Central Juvenile Hall in Los Angeles was temporarily shut down by the probation department when it was facing a re-inspection by the BSCC that it knew it would fail after reviewing footage from security cameras in the facility. BSCC previously had made a determination that the hall was out of compliance with several regulations and had been deemed unsuitable for housing youth. (See *'We're Screwed': L.A. County Empties Troubled Juvenile Hall Ahead of State Board's Inspection*, J. Queally, Los Angeles Times, March 16, 2022, https://www.latimes.com/california/story/2022-03-16/la-county-empties-central-juvenile-hall-ahead-of-state-inspection [as of March 13, 2023].) Beginning in February 2021, Central Juvenile Hall had been found to be out of compliance with regulations, which required development of a corrective action plan. During re-inspection, BSCC investigators found additional areas of non-compliance.[2] The BSCC advised the probation department that it would be conducting another re-inspection in March of 2022. However, before the re-inspection, the probation department told the BSCC that it was suspending operations for 90 days and transferring the youth to Barry J. Nidorf juvenile hall so that it could "assist in facilitating leadership changes, training for staff and needed repairs to the facility." (See BSCC finds LA Central Unsuitable, June 9, 2022, https://www.bscc.ca.gov/news/bscc-finds-la-central-unsuitable/ [as of March 13, 2023].)

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[1] It should be noted that some of the cells at Nidorf also do not have toilets.

[2] For example, a BSCC investigator discovered that a youth had been held in isolation for 11 days without receiving exercise or recreation outside of their room. (See LA Times, March 16, 2022, *supra.*)

Given the age of Central Juvenile Hall, it is unclear whether that temporary shutdown or suspension in operations by the probation department may have triggered compliance with the more recent version of Title 24's building standards if it is to continue to house minors.

4) **Recent Funding Provided to the Counties for Facility Improvements**: SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020 began the closure of DJJ, realigning those state functions to county governments. Under SB 823, DJJ intake closed for most youth on July 1, 2021, and counties became fully responsible for housing, programming, and treatment of youth who can no longer be committed to DJJ. Consequently, SB 823 also:

> [E]stablishes a Juvenile Justice Realignment Block Grant based on a formula that includes a county's share of the state's total youth population, total youth adjudicated for more serious offenses and prior DJJ usage to allocate funding to counties. Funding is contingent on the submission of a plan by counties as outlined. Juvenile grants will be awarded in concurrence with the Board of State and Community Corrections and the OYCR. All juvenile justice grant administration functions in the Board of State and Community Corrections shall be moved to the OYCR no later than January 1, 2025. The bill provides $9.6 million to establish the Regional Youth Programs and Facilities Grant Program. (Assembly Floor Analysis for SB 823, Aug. 30, 2020, Bill Analysis - SB-823 Juvenile justice realignment: Office of Youth and Community Restoration. (ca.gov))

More recently, the FY 2022-23 state budget allocated $100 million to county probation departments to be disbursed no later than August 31, 2022, for the renovation, repair, and improvement of county juvenile facilities. (See AB 178 (Committee on Budget), Chapter 45, Statutes of 2022.)

This bill would appropriate an unspecified amount from the General Fund for purposes of providing grants to address the inadequate and dilapidated state of county juvenile detention facilities. The grant funding is limited to counties of the first class, those being ones with a population of more than 4,000,000 people. Los Angeles County is a county of the first class. Moreover, this bill says that a special statute is necessary "because of the unique need to address the significant problem of inadequate and dilapidated juvenile facilities in the County of Los Angeles." So, the intended recipient of the unspecified amount of funds is Los Angeles County.

Los Angeles County received $17 million of the $100 million allocated to improving juvenile facilities in last year's budget. It is unclear how those monies are being spent. However, as noted above, the Central Juvenile Hall facility in Los Angeles County is in deplorable condition. While Barry J. Nidorf is in better condition than Central, it too is far from an optimal environment for housing and rehabilitating youth. And neither are conducive to delivering the "LA Model" model of care – "a small-group treatment model that is youth-centered and embodies a culture of care rather than a culture of control." (https://probation.lacounty.gov/campus-kilpatrick/. [as of March 16, 2023].) Campus Kilpatrick, which embodies the LA Model, cost $48 million to construct. (*Ibid.*; see also Los Angeles Times editorial, *Is L.A. 's New Juvenile Jail Really Worth $48 Million? Yes. Here's*

Why, June 29, 2017, https://www.latimes.com/opinion/editorials/la-ed-kilpatrick-20170629-story.html.)

5) **Argument in Support**: According to the *Los Angeles County Probation Officers Union, AFSCME Local 685*, the sponsor of this bill, "AB 695 addresses the need for modern, secure, and youth-centered facilities that enhance the rehabilitation function of the Los Angeles County Probation Department to meet the basic needs of detained youth and, more critically, to meet the expanded requirement of providing a "home-like" environment that enhances rehabilitation. The measure would establish a grant to fund these critical modifications, specifically to construct a new training facility for the L.A. County Probation Department and to renovate Central Juvenile Hall, Camp Joseph Paige or Dorothy Kirby Center, and Barry J. Nidorf Juvenile Hall.

"We strongly believe that DJJ youth should only have to be in these facilities until new ones are constructed. These facilities were constructed decades ago. They are dilapidated, prison-like, and unsuitable for our collective vision to rehabilitate troubled youth and young adults. Nevertheless, we are doing our best with what we have, but our mission to provide second chances for youth and young adults in a trauma-informed, care-first setting is severely compromised with the current facilities. We cannot stay silent – we know what the problems are, and we believe that, as probation professionals, it is our responsible to identify the problems and work collaboratively to come up with the right solution so society is a better place for all of us to exist.

"Please consider these facts:

- Research shows that justice-involved youth will be motivated to change their lives for the better based on their physical environmental and specially designed programming to meet their mental, emotional, and psychological needs.

- Justice-involved youth and staff need to feel safe and secure to work in a stable, transformational rehabilitative environment.

- Unlike the Youth Transition Center in San Diego, L.A. County Probation facilities are aged, and do not provide adequate safe and secure spaces for programming, counselling, dental and eye care, and/or trauma-informed psychological assessment for challenged youth.

- The L.A. County Probation Training is not adequate to meet the modern-day juvenile reform training goals for Probation Officers, which have undergraduate and graduate degrees in social work and treatment and counselling with challenged youth.

- Unless the State supports and allocates funding for the L.A. County Probation Department to have a Secure Youth Treatment Facility (SYTF) and Probation Training Academy, the justice-involved youth that are housed in these aged juvenile living facilities will not feel safe and secure, nor will they be challenged to change their lives for the better."

6) **Argument in Opposition**: According to the *Pacific Juvenile Defender Center*, "AB 695 would not address the root cause of the abysmal treatment of young people incarcerated in

LA County, it would in fact only further line the pockets of the very department responsible for creating the crisis we see in Los Angeles today. The abuses faced by youth in LA's halls and camps are not happening because the probation department lacks funds or training; LA County has poured resources into this department for decades, but conditions have only worsened despite year over year increases in funding. AB 695 will only serve to bolster LA County probation's dysfunction and abuse. We respectfully ask you join us in opposing this misguided endeavor which further funds the root cause of the crisis facing our youth….

"The LA County probation department is the largest in the country, if not the world, in size and budget. The county's FY 2021-22 adopted budget still allots over $1 billion to Probation, with close to half allocated to the youth division. Despite the decline in youth incarceration and arrests, Probation's youth division consistently receives greater and greater funding from the county. For the last decade, the youth advocacy community has been fighting to address and highlight Probation's oversized budget and well-documented abuses related to punishment-based practices. The egregious physical, sexual and emotional abuse committed by Los Angeles County's juvenile probation officers and supervisors has been well documented, including over 300 individuals who have come forward with harrowing allegations of sexual abuse in LA halls and camps, a history of physical abuse and cover ups, and multiple oversight agencies uncovering inappropriate use of force and overreliance on tear gas and solitary confinement by LA juvenile probation.

"Starting in 2006 and continuing to the present day, LA County's juvenile probation department has been under the eye of various federal, state, and local bodies. In 2006, the federal Department of Justice began monitoring LA halls and camps due to substandard conditions and remained in an oversight function for a decade. In 2018, the state Attorney General launched an investigation into LA halls and camps and found numerous abuses committed by probation officers – these included officers using tear gas a first resort without any de-escalation, officers using tear gas on youth in mental health crisis, officers violating use of force and solitary confinement policies, and officers ignoring young people's pleas to use the bathroom, resulting in young people urinating into milk cartons and towels in their cells overnight. In 2020, LA County halls were out of compliance with the Title 15 Minimum Standards and have cycled in and out of compliance to this day. On April 12, 2023 the Attorney General filed a motion to compel LA County probation to comply with a settlement agreement which LA County probation has been flagrantly violating for several months – the Attorney general noted 'as a result of low staffing levels, youth have been forced to urinate and defecate in their cells overnight' in addition to youth being denied education and fresh air.

"None of the above abuses are the result of a lack of funds or training, none of these abuses can be addressed with physical improvements to the facilities, none of these abuses can be addressed with an unnecessary 'training center' for officers. These abuses are happening at the hands of individual probation officers and management who are committed to bucking any oversight or consequences. Despite this years-long pattern of abuse, the LA County probation department has received increased funding every year for training and reform – it has made no difference. The abuses are systemic and deep-rooted in the culture of this department. After the horrendous treatment of young people at the hands of LA County probation, a cash infusion of close to a billion dollars is the last thing this department needs.

"LA County has already chartered a path to addressing the decades-long dysfunction in the

LA halls and camps – it is called Youth Justice Reimagined and it envisions an eventual phase out of reliance on halls and camps in favor of community alternatives and safe and secure healing centers. Youth Justice Reimagined is the result of years of collaboration among advocates and impacted communities and the LA Board of Supervisors has approved the plan unanimously. Pouring close to a billion dollars into LA's halls and camps is the antithesis of Youth Justice Reimagined; LA County has already committed to a model that shifts the focus away from youth incarceration facilities and AB 695 is a transparent attempt to undermine the County's vision for supporting young people."

7) **Related Legislation**:

a) AB 505 (Ting), would transfer all juvenile justice related functions from the BSCC to the OYCR. AB 505 is pending hearing in the Assembly Appropriations Committee.

b) AB 702 (Jackson), would redirect Juvenile Justice Crime Prevention Act funding, and changes the composition of juvenile justice coordinating councils to include more community representatives. AB 702 is pending hearing in this Committee.

c) AB 898 (Lackey), would require probation departments to annually report to the BSCC all injuries to juvenile hall staff and juvenile hall residents resulting from an interaction with staff and a resident. AB 898 is pending in the Assembly Appropriations Committee.

8) **Prior Legislation**:

a) AB 178 (Committee on Budget), Chapter 45, Statutes of 2022, in pertinent part, allocated $100 million to county probation departments no later than August 31, 2022, for the renovation, repair, and improvement of county juvenile facilities.

b) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020, closed DJJ effective July 1, 2021, and as of that date, shifted the responsibility for all youth adjudged a ward of the court to county governments. Also provided annual funding for county governments to fulfill this responsibility.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County Probation Managers Association Afscme Local 1967 (Co-Sponsor)
Los Angeles County Probation Officers Union, Afscme Local 685 (Co-Sponsor)
Seiu Local 1021 (Co-Sponsor)
Afcsme District Council 36
American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO
Association of Orange County Deputy Sheriffs
Coalition of County Unions
Los Angeles / Orange Counties Building and Construction Trades Council
Los Angeles County Federation of Labor
Los Angeles Professional Peace Officers Association
State Building and Construction Trades Council of CA

Supervisor Janice Hahn
Supervisor Kathryn Barger, Fifth District, County of Los Angeles

Opposition

California Public Defenders Association
Children's Defense Fund - CA
Communities United for Restorative Youth Justice
Decarcerate Sacramento
Dignity and Power Now
Fresno Barrios Unidos
Legal Services for Prisoners With Children
MILPA (Motivating Individual Leadership for Public Advancement)
Pacific Juvenile Defender Center
San Francisco Public Defender
Starting Over, INC.
The W. Haywood Burns Institute
Urban Peace Institute
Young Women's Freedom Center
Youth Justice Education Clinic, Center for Juvenile Law and Policy, Loyola Law School

Analysis Prepared by: Sandy Uribe / PUB. S. / (916) 319-3744

Amended Mock-up for 2023-2024 AB-695 (Pacheco (A))

Mock-up based on Version Number 99 - Introduced 2/13/23
Submitted by: Sandy Uribe, Assembly Public Safety Committee

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

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

(a) Counties and their probation departments are charged with providing rehabilitation services for minors and youth adjudicated under provisions of the Welfare and Institutions Code. A county of the first class within this state is charged with supervision and housing responsibility for the largest concentration of adjudicated youth in the state.

(b) Despite housing the largest concentration of detained juveniles in the juvenile justice system, facilities in a county of the first class are in critical need of basic infrastructure improvement to meet the basic needs of detained youth and, more critically, to meet the expanded requirement of providing a "homelike" environment that enhances rehabilitation.

(c) The Legislature must act to positively impact facilities and infrastructure improvement for a county of the first class to address the critical need for secure and youth-centered facilities that enhance the rehabilitation function of these departments.

(d) A Juvenile Detention Facilities Improvement Grant Program is required to address the critical need for infrastructure improvements in a county of the first class.

(e) Failing to act now to address the significant problem of inadequate and dilapidated facilities will fail to provide critically needed rehabilitative services for a vulnerable population.

(f) A comprehensive, reasonable Juvenile Detention Facilities Improvement Grant Program will ensure that the needs of adjudicated youth are addressed and will distribute the economic impact of funding required for these improvements.

SEC. 2. Chapter 1.55 (commencing with Section 1979) is added to Division 2.5 of the Welfare and Institutions Code, to read:

CHAPTER 1.55. Juvenile Detention Facilities Improvement Grant Program

1979. There is hereby established the Juvenile Detention Facilities Improvement Grant Program within the ~~Board of State and Community Corrections~~ **Office of Youth and Community Restoration** to provide grants pursuant to this chapter to a county of the first class, as defined in Section 28022 of the Government Code, to address the critical infrastructure needs of the state's detained and supervised youth in the county.

1979.1. (a) It is the intent of the Legislature that a county of the first class meet the preliminary performance outcomes for infrastructure improvements of their juvenile detention facilities as developed by the ~~board~~ **office**.

(b) The ~~board~~ **office** shall award grants based on the priorities for infrastructure improvement. The ~~board~~ **office** shall establish minimum standards, funding schedules, and procedures for awarding grants that prioritize projects with the highest critical infrastructure need that shall further the purposes of this chapter.

1979.2. (a) To be eligible for grants from the program, a county of the first class shall prepare a juvenile detention facilities improvement plan for the expenditure of funds for capital improvements that are necessary to preserve and protect the county's juvenile detention facilities to enhance each facility's rehabilitation function. **The plan shall include a description of how it will contribute to the county's ability to provide trauma-informed, culturally appropriate programming in a home-like environment.**

(b) Funds shall only be used for **newly-constructed living space for youths, projects that would modernize housing units and sleeping rooms to comply with existing building standards and achieve a home-like environment, or space to provide rehabilitative or educational programming for youths.** ~~improvements that are necessary to preserve and protect the county's juvenile detention facilities to enhance each facility's rehabilitation function~~.

(c) Facility improvements made as part of this grant program cannot result in a net increase in county rated capacity.

(d) The plan must be submitted to, and approved by, both the office and the governing body of the county. The office shall disburse awarded funds to the governing body of the county.

1979.3. The ~~board~~ **office** shall submit a report to the **budget and public safety policy committees of the** Legislature, on or before January 1, 2025, detailing the grants awarded and the projects funded through the program. The report required by this section shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. The sum of ____ is hereby appropriated from the General Fund to the ~~Board of State and Community Corrections~~ **Office of Youth and Community Restoration** for the purpose of providing grants pursuant to the Juvenile Detention Facilities Improvement Grant Program under

Chapter 1.55 (commencing with Section 1979) of Division 2.5 of the Welfare and Institutions Code.

SEC. 4. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need to address the significant problem of inadequate and dilapidated juveniles facilities in the County of Los Angeles.

Date of Hearing: April 25, 2023
Chief Counsel: Sandy Uribe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 702 (Jackson) – As Amended March 23, 2023

PULLED BY AUTHOR

Analysis Prepared by: Sandy Uribe / PUB. S. / (916) 319-3744

Date of Hearing: April 25, 2023
Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 732 (Mike Fong) – As Amended March 23, 2023

As Proposed to be Amended in Committee

SUMMARY: Reduces the amount of time a defendant who does not remain in custody has to relinquish a firearm following a conviction, and requires the Department of Justice (DOJ) to provide local law enforcement agencies and district attorneys a monthly report identifying persons who have not relinquished their firearms as required by law. Specifically, **this bill**:

1) Requires a probation officer to report to the prosecuting attorney, in addition to the court, whether a defendant has relinquished all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form.

2) Requires the court, if the probation officer's report does not confirm relinquishment of firearms registered in the defendant's name, to take one of the following actions:

   a) If the court finds probable cause that the defendant has failed to relinquish any firearms as required, immediately upon receipt of the probation officer's report, to order the search for, and removal of, any firearms at any location where the judge has probable cause to believe the defendant's firearms are located, and to specify the reasons for, and scope of, the search and seizure authorized by the order.

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

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

3) Requires a court, if it orders the search for and removal of defendant's firearms, to set a court date to ensure the warrant has been executed and to review the results of the search.

4) Requires, if the court orders the search for and removal of a defendant's firearms, the search warrant to be executed within 10 days of issuance.

5) Changes the procedure for relinquishing a firearm after conviction to depend on whether a defendant does or does not remain in custody at any time within the 48-hour period following conviction, instead of within the 5-day period following conviction.

6) Reduces, upon conviction of any offense that renders the defendant a prohibited person, as specified, the time a defendant who does not remain in custody at the time of conviction has to relinquish any firearm from within five days to within 48 hours of conviction.

7) Requires the DOJ to provide local law enforcement agencies and the district attorney a monthly report regarding individuals residing in their jurisdiction listed in the Armed Prohibited Persons System (APPS) who have not provided proof of relinquishment of firearms registered in their name.

8) Requires each local law enforcement agency to designate a person to access or receive the monthly report and to report to DOJ quarterly regarding steps taken to verify that the individuals are no longer in possession of firearms.

9) Authorizes law enforcement agencies operating in the same jurisdiction to agree to designate one lead agency for their jurisdiction to report on the steps taken to verify prohibited persons are no longer in possession of firearms.

10) Eliminates the authority of law enforcement to sell a relinquished firearm 30-days after the firearm was relinquished.

11) Includes legislative findings and declarations.

EXISTING LAW:

1) Requires a person, upon conviction of any offense that renders them a prohibited person, to relinquish all firearms they own, possess, or have under their custody or control, as specified. (Pen. Code, § 29810, subd. (a)(1).)

2) Requires the court, upon a conviction that makes the defendant a prohibited person, to instruct the defendant on the prohibition, to order the defendant to relinquish all firearms, as prescribed, and to provide the defendant with the Prohibited Persons Relinquishment Form. (Pen. Code, § 29810, subd. (a)(2).)

3) Requires the defendant, using the Prohibited Persons Relinquishment Form, to designate a consenting third party who is not a prohibited person or local law enforcement as designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. (Pen. Code, § 29810, subd. (a)(3).)

4) Requires the court, when a defendant is a prohibited person, to immediately assign the matter to a probation officer to investigate whether the Automated Firearms System (AFS) or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under his or her custody or control any firearms. (Pen. Code, § 29810, subd. (c)(1).)

5) Requires the assigned probation officer to receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the AFS has been properly updated to indicate that the defendant has relinquished those firearms. (Pen. Code, § 29810, subd. (c)(1).)

6) Requires the assigned probation officer, prior to final disposition or sentencing in the case, to report to the court whether the defendant has properly complied 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. (Pen. Code, § 29810, subd. (c)(2).)

7) Requires the court, prior to final disposition or sentencing in the case, to make findings concerning whether the probation officer's report indicates that the defendant has relinquished all firearms as required, and whether the court has received a completed Prohibited Persons Relinquishment Form, along with the specified receipts. (Pen. Code, § 29810, subd. (c)(3).)

8) Authorizes the court, if necessary to avoid a delay in sentencing, to make and enter findings relating to the probation officer's findings within 14 days of sentencing. (Pen. Code, § 29810, subd. (c)(3).)

9) Requires the court, if it finds probable cause that the defendant has failed to relinquish any firearms as required, to order the search for and removal of any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. (Pen. Code, § 29810, subd. (c)(4).)

10) Requires the court to state with specificity the reasons for and scope of the search and seizure authorized by the order. (Pen. Code, § 29810, subd. (c)(4).)

11) Provides that failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer constitutes an infraction punishable by a fine not exceeding $100. (Pen. Code, § 29810, subd. (c)(5).)

12) Provides the following procedures apply to any defendant who is a prohibited person who does not remain in custody at any time within the five-day period following conviction:

    a) Requires the designee to dispose of the defendant's firearms within five days of the conviction by surrendering them to a local law enforcement agency, selling them to a licensed firearms dealer, or transferring them for storage to a firearms dealer, as specified, in accordance with the wishes of the defendant.

    b) Requires the defendant's designee to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within five days following the conviction, along with receipts showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

    c) Requires the defendant, if they do not own, possess, or have any firearms to relinquish, he or she shall, within five days following conviction, to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer with a statement affirming that they have no firearms to relinquish. (Pen. Code, § 29810, subd. (d)(1)-(3).)

13) Provides that the following procedures apply to any defendant who is a prohibited person who is in custody at any point within the five-day period following conviction:

    a) Requires the designee to dispose of the defendant's firearms within five days of the conviction by surrendering them to a local law enforcement agency, selling them to a licensed firearms dealer, or transferring them for storage to a firearms dealer, as

specified, in accordance with the wishes of the defendant.

b) Requires the defendant's designee to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within five days following the conviction, along with receipts showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

c) Requires the defendant, if they do not own, possess, or have any firearms to relinquish, within 14 days following conviction, to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that they have no firearms to relinquish.

d) Requires the defendant, 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, within five days following their release, to relinquish each firearm required to be relinquished. (Pen. Code, § 29810, subd. (e)(1)-(4).)

14) Authorizes the court, for good cause, to shorten or enlarge the time periods for relinquishing a firearm, as specified, or to allow an alternative method of relinquishment. (Pen. Code, § 29810, subd. (f).)

15) Requires a search warrant to be executed and returned within 10 days after the date of issuance. (Pen. Code, § 1534, subd. (a).)

16) Requires a person subject to a gun violence restraining order to surrender, sell, or transfer all firearms and ammunition within 24 hours of service of the order. (Pen. Code, § 18120, subd. (b)(2).)

17) Requires a person subject to a gun violence restraining order, within 48 hours after being served with the order, to file the original receipt showing relinquishment of all firearms and ammunition with the court and a copy of the receipt with the law enforcement agency that served the order. (Pen. Code, § 18120, subd. (b)(5).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "As deadly mass shootings dominate headlines on a near-daily basis, including the tragic mass shooting in Monterey Park in my district, it is more important than ever to keep guns out of the hands of dangerous individuals. AB 732 strengthens the process for removing firearms from people who are not allowed to own them due to a criminal conviction by increasing the court and prosecuting attorney's roles in ensuring that guns are turned over at the time of conviction. It also requires increased coordination between the Department of Justice and local law enforcement agencies to address the backlog of individuals who may illegally own firearms. Together, these efforts will keep our communities safer."

2) **Background on APPS**: Existing law requires the DOJ to maintain a "Prohibited Armed Persons File," also known as the Armed and Prohibited Persons System (APPS) program. APPS went into effect in December 2006. California is the only state in the nation with an automated system for tracking firearm owners who might fall into a prohibited status.

   APPS is maintained and enforced by the Bureau of Firearms (BOF) within DOJ. BOF is responsible for education, regulation, and enforcement actions regarding the manufacture, sales, ownership, safety training, and transfer of firearms. The purpose of APPS is to disarm individuals who are legally prohibited from possessing a firearm. These individuals include convicted felons and persons convicted of certain misdemeanor offenses for domestic violence, individuals suffering from mental illness, and others. APPS tracks subjects who lawfully purchased firearms, but then illegally retained their firearms after falling into a prohibited category. APPS cross-references firearms owners across the state against criminal history records, mental health records, and restraining orders to identify individuals who have been, or will become, prohibited from possessing a firearm subsequent to the legal acquisition or registration of a firearm or assault weapon. This is a proactive way to prevent crime and reduce violence.

3) **APPS Collaboration Efforts**: The APPS backlog has been a well-known and continuously discussed issue dating back close to the creation of APPS. (California State Auditor. *Armed Persons With Mental Illness*. (2013) <https://www.auditor.ca.gov/reports/summary/2013-103> [as of Feb. 21, 2023] at p. 3.) In 2013, the DOJ committed to eliminating the APPS backlog by 2016. (*Id.* at 74.) Since then, the APPS backlog has increased and is currently the highest it has ever been. (DOJ. *Armed and Prohibited Persons System Report 2021.* (2021) (hereafter *2021 APPS Report*) <https://oag.ca.gov/news/press-releases/california-department-justice-releases-2021-armed-and-prohibited-persons-system> [as of Feb. 21, 2023] at p. 13.)

   One of the potential factors driving the backlog may be the discrepancy between the number of staff enforcing APPS and the overall number of individuals in APPS. According to the most recent DOJ report, there are a total of 76 Special Agent positions allocated for APPS enforcement, and only 53 of those positions are filled. (*Id.* at 21.) Those 53 individuals are primarily responsible for removing firearms from the 24,509 prohibited persons currently in APPS. (*Id.* at 13.) Although the DOJ, in 2021, removed 3,221 prohibited persons from APPS through disassociating all their known firearms, the discrepancy between the number of DOJ agents enforcing APPS and the overall number of prohibited persons in APPS seems quite large. (*Id.* at 15.) Among other things, the DOJ has recommended to improve existing cooperation and use of law enforcement agencies in order to help address the backlog, calling such efforts "force multipliers." (*Id.* at 5, 11, 29-30, 34.)

   Law enforcement agencies involvement with APPS seems, at least in part, to be what legislators envisioned when outlining some of the procedural details regarding APPS firearm removals. For example, existing law requires a person convicted of a felony or certain misdemeanor to relinquish all firearms. (Pen. Code § 29810 subd. (a)(1).) The process requires the defendant to submit a form detailing any firearms they possess, be informed of how to relinquish such firearms, and requires a probation officer to check the Automated Firearms System and any credible information for firearms associated to the defendant. (Pen. Code, § 29810 subds. (a)(3), (b)(1)-(7), and (c)(1).) The defendant is allowed a specified amount of time to relinquish their firearms and if they do not do so the court must issue a search warrant for retrieval of the firearm. (Pen. Code, § 29810 subd. (1)-(4).) Unfortunately,

this procedure is likely not being followed; the DOJ states that 14,561, or 57%, of prohibited persons in APPS currently fall under these parameters, and the increasing yearly number of such individuals further reinforces the conclusion that the relinquishment procedures are not being enforced. (2021 APPS Report, *supra,* at p. 33.)

This bill, among other things, attempts to improve cooperation between DOJ and law enforcement agencies by requiring DOJ to provide law enforcement agencies and district attorneys with a monthly report regarding individuals in their jurisdictions in APPS who have not provided proof of relinquishment of firearms. The bill would also require each law enforcement agency to designate a person to receive the information and to report to DOJ the steps taken to verify that prohibited persons have relinquished their firearms.

4) **Argument in Support**: According to *March for Our Lives*, "AB 732 will strengthen the process for ensuring a person prohibited from owning a firearm relinquishes any firearms in their possession near the time of conviction. AB 732 will also improve collaboration between the Department of Justice (DOJ) and local law enforcement seeking to secure firearms from individuals in the Armed Prohibited Persons System (APPS).

"In 2016, Proposition 63 created a process to ensure that a person convicted of an offense that precludes them from owning a firearm does not continue to own firearms after conviction. California's APPS database, created in 2006, cross-references known gun owners against criminal history records, generating a list of individuals prohibited from owning firearms who may still have a registered firearm in their possession.

"As of January 2022, the APPS database has 24,509 pending cases, with approximately 10,000 of these related to a criminal conviction. The Department of Justice reports that about 5,000 people are added to APPS each year as a result of a new conviction. In each of these cases, the current court process failed to confirm relinquishment of a registered firearm from the convicted person at the time of the conviction. Since 2013, over 91,000 individuals were removed from the list, but nearly 99,000 were added, a net gain of nearly 8,000. In 2021, more people were taken off the list because they had passed away or their prohibition expired than were removed due to relinquishing firearms.

"Our current system for removing firearms at the time of conviction lacks enforcement mechanisms, creating a large backlog of people who may illegally own firearms. In addition, there are challenges in coordinating between state and local agencies. Currently, DOJ provides a monthly report to local law enforcement agencies that indicates all individuals on the APPS list in their jurisdiction. However, a recent report by CalMatters revealed that many law enforcement agencies are not aware of these reports and do not do anything with them.

"AB 732 strengthens the process for removing firearms from prohibited individuals by increasing the court and prosecuting attorney's roles in ensuring that guns are relinquished at the time of conviction. It also codifies DOJ's practice of providing monthly APPS reports to local law enforcement, requires local law enforcement to designate a person to receive the report, and requires them to report back quarterly about efforts to ensure the removal of firearms from individuals in their communities.

"Research shows that removing guns from people prohibited from owning them correlates with reduced gun violence. AB 732 will improve our process for ensuring relinquishment at

the time of a conviction and the process for securing firearms from people in APPS."

5) **Related Legislation**:

a) AB 29 (Gabriel), would require DOJ to develop an Internet-based platform to allow California residents to voluntarily add their own name to the California Do Not Sell List for firearms, which prohibits an individual from purchasing a firearm. AB 29 is pending hearing in the Assembly Appropriations Committee.

b) AB 36 (Gabriel) would prohibit any person subject to a civil or criminal protective order issued on or after July 1, 2024, from owning, possessing, purchasing, or receiving a firearm or ammunition within three years after expiration of the order. AB 36 is being heard by this Committee today.

c) AB 303 (Davies), would require the Attorney General to provide local law enforcement agencies enumerated information related to prohibited persons in the APPS database. AB 303 is pending hearing in the Assembly Appropriations Committee.

6) **Prior Legislation**:

a) AB 178 (Ting), Chapter 45, Statutes of 2022, allocates $40 million to the Judicial Council to support a court-based firearm relinquishment program to ensure the consistent and safe removal of firearms from individuals who become prohibited from owning or possessing firearms and ammunition pursuant to court order.

b) SB 129 (Skinner), Chapter 69, Statutes of 2021, allocates funds to DOJ to disburse to local sheriffs' departments for APPS enforcement operations, and outlined reporting requirements for participating sheriffs' departments.

c) AB 340 (Irwin), of the 2019-2020 Legislative Session, would have authorized a county or counties to establish and implement a Disarming Prohibited Persons Taskforce (DPPT) program, for the purpose of investigating and assisting in the prosecution of individuals who are armed and prohibited from possessing a firearm; and required the DOJ to award grants to jurisdictions that establish DPPT teams upon appropriation by the Legislature. The Governor vetoed AB 340.

d) SB 94 (Committee on Public Safety), Chapter 25, Statutes of 2019, requires DOJ to send an annual report to the Legislature detailing information related to APPS including the number of individuals in the database, firearms removed, number of staff enforcing APPS, and information regarding collaborative task forces with local law enforcement agencies.

e) SB 140 (Leno), Chapter 2, Statutes of 2013, appropriates $24 million to step up efforts to reduce the number of pending cases in the APPS backlog.

f) AB 809 (Feuer), Chapter 745, Statutes of 2011, requires the DOJ to collect and retain firearm transaction information for all types of firearms, including long guns.

g) SB 950 (Brulte), Chapter 944, Statutes of 2001, creates the Armed and Prohibited Persons System (APPS).

REGISTERED SUPPORT / OPPOSITION:

Support

Everytown for Gun Safety Action Fund
March for Our Lives Action Fund
Peace Officers Research Association of California (PORAC)

Opposition

None submitted.

Analysis Prepared by: Andrew Ironside / PUB. S. / (916) 319-3744

Amended Mock-up for 2023-2024 AB-732 (Mike Fong (A))

Mock-up based on Version Number 98 - Amended Assembly 3/23/23
Submitted by: Staff Name, Office Name

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

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

(a) Research shows that quickly removing firearms from individuals who are prohibited from owning them reduces violence.

(b) Current law requires that, at the time a person is convicted of a new offense that prohibits firearm ownership, steps shall be taken to determine whether the person has a firearm registered in their name, and if so, to ensure relinquishment of all firearms.

(c) Despite this, the Department of Justice reports that each year, approximately 5,000 people are added to the Armed Prohibited Persons System as a result of a new criminal conviction. Each of these individuals is prohibited from owning a firearm as a result of conviction yet continues to have a firearm registered in their name.

(d) It is the intent of the Legislature that every person convicted of an offense that prohibits firearm ownership shall in fact relinquish all firearms at the time of conviction. It is the further intent of the Legislature that prosecuting attorneys and courts shall ensure relinquishment of firearms prior to the final disposition of a criminal case.

SEC. 2. 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 or Section 29805, 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 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 that the defendant has failed to relinquish any firearms as required, immediately upon receipt of the probation officer's report, the court shall order the search 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 state with specificity the reasons for, and scope of, the search and seizure authorized by the order. The court shall set a court date to ensure the warrant has been executed and to review the results of the search. The search warrant shall be executed ~~within 72 hours of issuance~~ **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.

SEC. 3. Section 29813 is added to the Penal Code, to read:

29813. The Department of Justice shall provide local law enforcement agencies and the district attorney a monthly report regarding individuals residing in their jurisdiction listed in the Armed Prohibited Persons System who have not provided proof of relinquishment of firearms registered in their name. Each local law enforcement agency shall designate a person to access or receive the information and shall report to the Department of Justice quarterly regarding steps taken to verify that the individuals are no longer in possession of firearms. Law enforcement agencies operating in the same jurisdiction may agree to designate one lead agency for their jurisdiction to report on the steps taken to verify individuals are no longer in possession of firearms.

SEC. 4. 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.

Date of Hearing: April 25, 2023
Counsel: Mureed Rasool

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 733 (Mike Fong) – As Amended March 23, 2023

As Proposed to be Amended in Committee

SUMMARY: Prohibits governmental agencies within the state from selling firearms, ammunition, or body armor, as defined. Specifically, **this bill**:

1) Provides that no agency or department of the state or any political subdivision thereof shall sell firearms, ammunition, or body armor.

2) Repeals a provision of state law allowing officers within the state to sell a firearm that was used as an exhibit in a criminal action and is no longer needed or is unclaimed or abandoned property, as specified.

3) Repeals a provision of state law allowing officers within the state to sell a firearm relinquished to them by a person prohibited from owning a firearm due to a conviction.

4) Finds and declares that disposal of firearm by government entities is a statewide matter of concern, as specified.

5) Makes conforming changes to existing law.

EXISTING LAW:

1) Defines "body armor" in part, as a bullet-resistant material intended to provide ballistic and trauma protection. (Pen. Code, § 16288.)

2) Defines "firearm" in part, as including the frame or receiver of the weapon, including a firearm precursor part. (Pen. Code, § 16520, subd. (b).)

3) Defines a "firearm precursor part" as any forging, casting, extrusion, or similar article that has reached a stage where it can be readily assembled or completed to be used as the frame of a functional firearm. (Pen. Code, § 16531.)

4) States that firearms owned in violation of specified state laws, or that have been used in the commission of a crime, upon conviction of the defendant, are a nuisance and must be surrendered, as specified. (Pen. Code, § 29300.)

5) Outlines the procedure for surrendering firearms that are nuisances to law enforcement and states that such weapons must be destroyed, as specified. (Pen. Code, §§ 18000, 18005

6) Authorizes officers within the state to, among other things, sell a firearm that was used as an exhibit in a criminal action and is no longer needed or is unclaimed or abandoned property, as specified. (Pen. Code, § 34000.)

7) Authorizes law enforcement to sell a firearm relinquished to them by a person prohibited from owning a firearm due to a conviction. (Pen. Code, § 29810, subd. (a) & (i).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Earlier this year, in the wake of the tragic mass shooting in Monterey Park in my district, it was reported that a local law enforcement agency was attempting to sell surplus firearms in an online auction the same weekend as the shooting. This incident revealed a gap in our current system: there is no state law that prohibits state and local government agencies from selling surplus firearms and related items to members of the public, manufacturers, and others. Government entities should not be putting more guns into circulation on the streets of our communities.

   "AB 733 will close the gap in current law by prohibiting state and local agencies from selling firearms, firearm parts, ammunition, and body armor. This will ensure that government entities are not playing a role in increasing access to deadly weapons in our communities."

2) **Law Enforcement Sale of Firearms**: According to a Harvard University review of academic literature, a broad array of evidence indicates that firearm availability leads to an increased risk factor for homicide, both in the U.S. and in other high-income countries. (Harvard University Injury Control Research Center. *Firearms Research: Homicide.* <https://www.hsph.harvard.edu/hicrc/firearms-research/guns-and-death/> [as of Apr. 20, 2023].) Until quite recently, California law enforcement agencies were able to sell firearms to the public, which, considering the state's extensive firearm laws, was atypical. However, the recent changes to California's laws only covered firearms that were considered a "nuisance" and were surrendered to law enforcement. (AB 200 (Ting) Chapter 58, Statutes of 2022.)

   This means that law enforcement agencies can still sell other types of firearms, such as surplus firearms. The exception in the law was recently highlighted after the shooting in Monterey Park, where 11 people were fatally shot. Shortly after the shooting in Monterey Park, L.A. County officials became aware that the L.A. County Probation Department was preparing to sell firearms from their inventory to the public. Although the L.A. County Probation Department cancelled the auction, it raised many questions about the prudence of the state adding firearms back into general circulation. (L.A. Times. *Editorial: What were L.A. probation officials thinking? Public agencies should not profit from firearm sales.* (Jan. 24, 2023) <https://www.latimes.com/opinion/story/2023-01-24/l-a-probation-firearm-auction-semiautomatic> [as of Apr. 20, 2023].)

   This bill would prohibit state and local agencies or departments from selling firearms, ammunition, and body armor, thereby reducing the number of such items in general circulation.

3) **Argument in Support**: According to the bill's sponsor, the *Prosecutors Alliance of California*, "Earlier this year, in the wake of the tragic mass shooting in Monterey Park, it was reported that a local law enforcement agency in Los Angeles County was attempting to sell surplus firearms in an online auction the same weekend as the shooting. The Los Angeles County Board of Supervisors took swift action to block the sale of these firearms. This dangerous practice is not limited to Los Angeles County. A local law enforcement agency in Santa Barbara County has reportedly sold firearms back to manufacturers, allowing these deadly weapons to re-enter circulation and potentially be sold to members of the public.

   "Government entities should not be putting more guns into circulation on the streets of our communities. This practice undercuts the work that state and local leaders are doing to combat violence, including programs like gun buybacks.

   "AB 733 will close the gap in current law by prohibiting state and local agencies from selling firearms, firearm parts, ammunition, and body armor. This will ensure that government entities are not playing a role in increasing access to deadly weapons in our communities."

4) **Argument in Opposition**: None received.

5) **Related Legislation**: AB 732 (Fong) would, among other things, prohibit law enforcement from selling firearms that were relinquished to them due to a felony or specified misdemeanor conviction prohibiting the owner from possessing firearms.

6) **Prior Legislation**:

   a) AB 200 (Ting) Chapter 58, Statutes of 2022, required law enforcement agencies to destroy firearms that were surrendered to them.

   b) Proposition 63 of the November 2016 general election, stated, in part, that law enforcement agencies could sell firearms relinquished to them due to a felony or specified misdemeanor conviction prohibiting the owner from possessing firearms.

REGISTERED SUPPORT / OPPOSITION:

Support

Prosecutors Alliance California (Sponsor)
Giffords
March for Our Lives Action Fund

Opposition

None received.

Analysis Prepared by: Mureed Rasool / PUB. S. / (916) 319-3744

Amended Mock-up for 2023-2024 AB-733 (Mike Fong (A))

Mock-up based on Version Number 98 - Amended Assembly 3/23/23
Submitted by: Mureed Rasool, Assembly Public Safety Committee

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

SECTION 1. Section 16288 of the Penal Code is amended to read:

16288. As used in Sections 29550 and 31360, "body armor" means any bullet-resistant material intended to provide ballistic and trauma protection for the person wearing the body armor.

SEC. 2. Section 16520 of the Penal Code is amended to read:

16520. (a) As used in this part, "firearm" means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.

(b) As used in the following provisions, "firearm" includes the frame or receiver of the weapon, including both a completed frame or receiver, or a firearm precursor part:

(1) Section 136.2.

(2) Section 646.91.

(3) Sections 16515 and 16517.

(4) Section 16550.

(5) Section 16730.

(6) Section 16960.

(7) Section 16990.

(8) Section 17070.

(9) Section 17310.

(10) Sections 18100 to 18500, inclusive.

(11) Section 23690.

(12) Section 23900 to 23925, inclusive.

(13) Sections 26500 to 26590, inclusive.

(14) Sections 26600 to 27140, inclusive.

(15) Sections 27200 to 28490, inclusive.

(16) Sections 29010 to 29150, inclusive.

(17) Section 29185.

(18) Section 29550.

(19) Sections 29610 to 29750, inclusive.

(20) Sections 29800 to 29905, inclusive.

(21) Sections 30150 to 30165, inclusive.

(22) Section 31615.

(23) Sections 31700 to 31830, inclusive.

(24) Sections 34355 to 34370, inclusive.

(25) Sections 527.6 to 527.9, inclusive, of the Code of Civil Procedure.

(26) Sections 8100 to 8108, inclusive, of the Welfare and Institutions Code.

(27) Section 15657.03 of the Welfare and Institutions Code.

(c) As used in the following provisions, "firearm" also includes a rocket, rocket propelled projectile launcher, or similar device containing an explosive or incendiary material, whether or not the device is designed for emergency or distress signaling purposes:

(1) Section 16750.

(2) Subdivision (b) of Section 16840.

(3) Section 25400.

(4) Sections 25850 to 26025, inclusive.

(5) Subdivisions (a), (b), and (c) of Section 26030.

(6) Sections 26035 to 26055, inclusive.

(d) As used in the following provisions, "firearm" does not include an unloaded antique firearm:

(1) Section 16730.

(2) Section 16550.

(3) Section 16960.

(4) Section 17310.

(5) Subdivision (b) of Section 23920.

(6) Section 25135.

(7) Chapter 6 (commencing with Section 26350) of Division 5 of Title 4.

(8) Chapter 7 (commencing with Section 26400) of Division 5 of Title 4.

(9) Sections 26500 to 26588, inclusive.

(10) Sections 26700 to 26915, inclusive.

(11) Section 27510.

(12) Section 27530.

(13) Section 27540.

(14) Section 27545.

(15) Sections 27555 to 27585, inclusive.

(16) Sections 29010 to 29150, inclusive.

(17) Section 29180.

(e) As used in Sections 34005 and 34010, "firearm" does not include a destructive device.

(f) As used in Sections 17280 and 24680, "firearm" has the same meaning as in Section 922 of Title 18 of the United States Code.

(g) As used in Sections 29180 to 29184, inclusive, "firearm" includes the completed frame or receiver of a weapon.

SEC. 3. Chapter 3 (commencing with Section 29550) is added to Division 8 of Title 4 of Part 6 of the Penal Code, to read:

CHAPTER 3. Sale of Firearms by Governmental Entities

29550. No agency or department of the state or any political subdivision thereof shall sell any firearm, ammunition, or body armor.

SEC. 4. Section 34000 of the Penal Code is amended to read:

34000. (a) Notwithstanding any provision of law or of any local ordinance to the contrary, when any firearm is in the possession of any officer of the state, or of a county, city, or city and county, or of any campus of the University of California or the California State University, and the firearm is an exhibit filed in any criminal action or proceeding which is no longer needed or is unclaimed or abandoned property, which has been in the possession of the officer for at least 180 days, the firearm shall be destroyed, as provided for in Section 18005.

(b) This section does not apply to any firearm in the possession of the Department of Fish and Game, or which was used in the violation of any provision in the Fish and Game Code, or any regulation under that code.

SEC. 5. The Legislature finds and declares that the disposal of firearms by government entities is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 3 of this act adding Section 29550 to the Penal Code applies to all cities, including charter cities.

SEC. 6 SECTION 29810 OF THE PENAL CODE IS AMENDED TO READ:

§ 29810. Relinquishment of firearm by convicted person subject to Section 29800 or 29805; Procedure
(a)
(1) Upon conviction of any offense that renders a person subject to Section 29800 or Section 29805, the person shall relinquish all firearms he or she owns, possesses, or has under his or her custody or control in the manner provided in this section.
(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that he or she is prohibited from owning, purchasing, receiving,

possessing, or having under his or her 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 he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and that he or she 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 he or she owned, possessed, or had under his or her custody or control at the time of his or her 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 he or she owned, possessed, or had under his or her custody or control any firearms at the time of his or her conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.
(5) Require the designee to indicate his or her consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that he or she is 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 his or her 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 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) Prior to final disposition or sentencing in the case, the court shall make findings concerning whether the probation officer's report indicates that the defendant has relinquished all firearms as required, and whether 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.
(4) If the court finds probable cause that the defendant has failed to relinquish any firearms as required, the court shall order the search 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 state with specificity the reasons for and scope of the search and seizure authorized by the order.
(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 five-day period following conviction:
(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within five 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 his or her 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 five days 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 his or her custody or control any firearms to relinquish, he or she shall, within five days following conviction, submit the

completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has 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 five-day period following conviction:
(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her 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 his or her 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 his or her custody or control any firearms to relinquish, he or she shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has 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 his or her 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, ~~sale~~ 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) This section shall become operative on January 1, 2018.

Date of Hearing: April 25, 2023
Consultant: Elizabeth Potter

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 762 (Wicks) – As Amended April 17, 2023

SUMMARY: Changes the purpose of the California Violence Intervention and Prevention Grant Program (CalVIP), as well as the eligibility requirements for the grant, and makes the program permanent. Specifically, **this bill:**

1) Changes the purpose of CalVIP from reducing violence in the form of homicides, shootings, and aggravated assaults to reducing community gun violence.

2) States that, for the purposes of CalVIP, "community gun violence" means intentional acts of interpersonal violence involving a firearm, generally committed in public areas by individuals who are not intimately related to the victim, and which result in physical injury, emotional harm, or death.

3) Expands CalVIP to counties that have one or more cities disproportionately impacted by community gun violence, and to tribal governments.

4) Revises CalVIP grant proposal requirements to include, but not limited, to the following:

   a) A statement describing how the applicant proposes to use the grant to implement an evidence-based community gun violence reduction initiative, including how the applicant will identify, engage, and provide violence intervention services to individuals at right of perpetrating or being victimized by community gun in the near future; and

   b) For city and county applicants, a statement demonstrating support for the proposed violence reduction initiative from one or more community-based organizations, or from a public agency or department other than a law enforcement agency that is primarily dedicated to community safety or violence prevention.

5) States that in awarding CalVIP grants, the board shall give preference to applicants whose grant proposals demonstrate the greatest likelihood of reducing the incidence of community gun violence, in the applicant's community within the grant period, rather than reducing the incidence of homicides, shootings, and aggravated assaults generally.

6) Allows the Board of State and Community Corrections (BSCC) to award competitive grants in amounts not to exceed $2,500,000 per applicant per year. The length of the grant cycle shall be at least three years.

7) Requires the BSCC to award at least two grants to cities or counties with populations of 200,000 or less.

8) Eliminates the requirement that grant recipients must commit a cash or in-kind contribution equivalent to the amount of the grant awarded.

9) Requires the BSCC, upon making CalVIP grant awards, to make at least 20% of approved grantee's total grant award available to the grantee at the start of the grant period or as soon as possible thereafter, in order to enable grantees to immediately utilize such funds to support violence reduction initiatives.

10) States that a city or county that receives a CalVIP grant shall distribute no less than 50 percent of the grant to one or more of any of the following types of entities, as specified.

11) Requires the BSCC to form an executive steering committee including, without limitation:

    a) Persons who have been impacted by community gun violence;

    b) Formerly incarcerated persons;

    c) Subject matter experts in community gun violence prevention and intervention;

    d) The director of the California Office of Gun Violence Prevention or the director's designee; and,

    e) At least three persons with direct experience in implementing evidence-based community gun violence reduction initiatives, including initiatives that incorporate public health and community-based approaches focused on providing violence intervention services to the small segment of the population identified as high risk perpetrating or being victimized by community gun violence in the near future.

12) Allows the BSCC to reserve up to $2,000,000 of the funds appropriated for CalVIP each year for the costs of administering and promoting the effectiveness of the program rather than the existing 5% allowed for administrative purposes. .

13) Allows the BSCC, with the advice and assistance of CalVIP executive steering committee, to reserve up to 5% of the funds appropriated for CalVIP each year for the purpose of supporting programs and activities designed to build and sustain capacity in the field of community gun violence intervention and prevention, and to support detailed community gun violence problem analyses that help service providers and other stakeholders inform and develop community gun violence reduction initiatives by identifying individuals in their community who are at high risk of perpetrating or being victimized by community gun violence in the near future and highest need for violence intervention services.

14) Provides that activities to build and sustain capacity in the field of community-based gun violence intervention and prevention may include, without limitation:

    a) Contracting with or providing grants to organizations that provide training, certification, or continued professional development to community-based gun violence intervention and prevention professionals, including frontline professionals and technical assistance providers;

b) Contracting with or providing grants to nonprofit intermediary organizations that foster the development and growth of community-based organizations dedicated to community gun violence intervention and prevention;

c) Providing mental health support and other supportive services to frontline community gun violence intervention professionals in order to recruit, retain, and sustain these professionals in their field; and,

d) Providing mental health services or financial assistance to family members of frontline community gun violence intervention professionals who are killed or violently injured in the performance of their work.

15) Changes the reporting requirements the Legislature from 90 days following the close of each grant cycle, to 120 days.

16) Requires evaluations of CalVIP-supported initiatives be made available to the public.

17) States that these provisions shall only apply to CalVIP grant applications and awards made after January 1, 2024, and shall not be construed to affect grant applications or awards made prior to this date.

18) Removes the sunset date of January 1, 2025 and allows the CalVIP to operate indefinitely.

19) Makes other technical and clarifying changes.

EXISTING LAW:

1) Establishes CalVIP, to be administered by the BSCC. (Pen. Code, § 14131, subd. (a).)

2) States that the purpose of CalVIP is to improve public health and safety by supporting effective violence reduction initiatives in communities that are disproportionately impacted by violence, particularly group-member involved homicides, shootings, and aggravated assaults. (Pen. Code, § 14131, subd. (b).)

3) States that CalVIP grants shall be used to support, expand, and replicate evidence-based violence reduction initiatives, including, without limitation, hospital-based violence intervention programs, evidence-based street outreach programs, and focused-deterrence strategies, that seek to interrupt cycles of violence and retaliation in order to reduce the incidence of homicides, shootings, and aggravated assaults. (Pen. Code, § 14131, subd. (c).)

4) States that CalVIP grants shall be made on a competitive basis to cities that are disproportionately impacted by violence, and to community-based organizations that serve the residents of those cities. (Pen. Code, § 14131, subd. (d).)

5) States that for purposes of CalVIP, a city is disproportionately impacted by violence if any of the following are true:

a) The city experienced 20 or more homicides per calendar year during two or more of the three calendar years immediately preceding the grant application;

b) The city experienced 10 or more homicides per calendar year and had a homicide rate that was at least 50%higher than the statewide homicide rate during two or more of the three calendar years immediately preceding the grant application; or,

c) An applicant otherwise demonstrates a unique and compelling need for additional resources to address the impact of homicides, shootings, and aggravated assaults in the applicant's community. (Pen. Code, § 14131, subd. (e)(1)-(3).)

6) States that an applicant for a CalVIP grant shall submit a proposal, in a form prescribed by the board, which shall include, but not be limited to, all of the following:

a) Clearly defined and measurable objectives for the grant;

b) A statement describing how the applicant proposes to use the grant to implement an evidence-based violence reduction initiative;

c) A statement describing how the applicant proposes to use the grant to enhance coordination of existing violence prevention and intervention programs and minimize duplication of services; and,

d) Evidence indicating that the proposed violence reduction initiative would likely reduce the incidence of homicides, shootings, and aggravated assaults. (Pen. Code, § 14131, subd. (f)(1)-(4).)

7) States that in awarding CalVIP grants, the board shall give preference to applicants whose grant proposals demonstrate the greatest likelihood of reducing the incidence of homicides, shootings, and aggravated assaults in the applicant's community, without contributing to mass incarceration. (Pen. Code, § 14131, subd. (g).)

8) Requires the amount of funds awarded to an applicant to be commensurate with the scope of the applicant's proposal and the applicant's demonstrated need for additional resources to address violence in the applicant's community. (Pen. Code, § 14131, subd. (h).)

9) Requires grant recipients to commit a cash or in-kind contribution equivalent to the amount of the grant awarded. (Pen. Code, § 14131, subd. (i).)

10) Requires each city that receives a CalVIP grant to distribute no less than 50%of the grant funds to community-based organizations or public agencies or departments, other than law enforcement agencies or departments, that are primarily dedicated to community safety or violence prevention. (Pen. Code, § 14131, subd. (j)(1)(2).)

11) Requires the board to form a grant selection advisory committee including, without limitation, persons who have been impacted by violence, formerly incarcerated persons, and persons with direct experience in implementing evidence-based violence reduction initiatives, including initiatives that incorporate public health and community-based

approaches. (Pen. Code, § 14131, subd. (k).)

12) States that the board may use up to 5% of the funds appropriated for CalVIP each year for the costs of administering the program including, without limitation, the employment of personnel, providing technical assistance to grantees, and evaluation of violence reduction initiatives supported by CalVIP. (Pen. Code, § 14131, subd. (l).)

13) Requires grant recipients to report to the board, in a form and at intervals prescribed by the board, their progress in achieving the grant objectives. (Pen. Code, § 14131, subd. (m).)

14) Requires the board, by no later than 90 days following the close of each grant cycle, to prepare and submit a report to the Legislature regarding the impact of the violence prevention initiatives supported by CalVIP. (Pen. Code, § 14131, subd. (n).)

15) Requires the board to make evaluations of the grant program available to the public. (Pen. Code, § 14131, subd. (o).)

16) Sunsets the CalVIP Grant program on January 1, 2025. (Pen. Code, § 14132.)

EXISTING FEDERAL LAW:

1) Allows the Attorney General of the United States to award grants to entities to provide personnel, training, technical assistance, advocacy, intervention, risk reduction (including using evidence-based indicators to assess the risk of domestic and dating violence homicide) and prevention of domestic violence. (34 U.S.C. § 20122.)

2) Allows the Attorney General of the United States, through the Director of the Violence Against Women Office, to make grants to community-based programs for the purpose of enhancing culturally specific services for victims of domestic violence, dating violence, sexual assault, and stalking. (34 U.S. Code § 20124.)

3) Allows the Attorney General of the United States to make grants to institutions of higher education, for use by such institutions or consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat domestic violence, dating violence, sexual assault, and stalking on campuses. (34 U.S. Code § 20125.)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "Back in 2019, myself along with my colleague Asm. Petrie-Norris, authored and passed AB 1603, formerly known as the Break the Cycle of Violence Act, which codified and significantly reformed the then-new CalVIP grant program. Within that measure however, a sunset date of January 1, 2025 was established. To foster program stability, longer-term strategic planning, and renew the state's commitment to violence intervention professionals' lifesaving work, we must renew the Break the Cycle of Violence Act and write the CalVIP program more permanently into the

public safety infrastructure of our state.

"AB 762 will indefinitely extend the provisions already established within the Break the Cycle of Violence Act. In addition, AB 762 will make various technical changes to the authorizing statute to clarify definitions for grant administrators and applicants, authorize tribal governments and counties to apply for grants, and incorporate some vetted best practices that will help address some of the barriers to access for new programs."

2) **California Violence Intervention and Prevention (CalVIP) Grant Program**: The CalVIP grant program was established in 2017 and replaced the California Gang Reduction Intervention and Prevention grant program. According to the BSCC website "In October 2019 Governor Newsom signed the Break the Cycle of Violence Act (AB 1603). AB 1603 codified the establishment of CalVIP and defined its purpose: to improve public health and safety by supporting effective violence reduction initiatives in communities that are disproportionately impacted by violence, particularly group-member involved homicides, shootings, and aggravated assaults. The Break the Cycle of Violence act specifies that CalVIP grants shall be used to support, expand and replicate evidence-based violence reduction initiatives, including but not limited to:

- Hospital-based violence intervention programs,
- Evidence-based street outreach programs, and
- Focused deterrence strategies.

"These initiatives should seek to interrupt cycles of violence and retaliation in order to reduce the incidence of homicides, shootings, and aggravated assaults and shall be primarily focused on providing violence intervention services to the small segment of the population that is identified as having the highest risk of perpetrating or being victimized by violence in the near future." (https://www.bscc.ca.gov/s_cpgpcalvipgrant/ [as of March 28, 2023])

This bill would change the purpose of the CalVIP. Rather than focusing on various forms of violence, including shootings but also assaults and homicides in general, this bill would limit the purpose of CalVIP to community gun violence. This bill would define community gun violence as intentional acts of interpersonal violence involving a firearm, generally committed in public areas by individuals who are not intimately related to the victim, and which result in physical injury, emotional harm, or death.

3) **Requirements for Grant Applicants:** The CalVIP grant program is meant to be used by cities that disproportionately suffer from violence. The CalVIP eligibility lists the requirements for eligibility on their website as follows:

"Eligible grant activities - CalVIP grants must be used to support, expand, and replicate evidence-based violence reduction initiatives that seek to interrupt cycles of violence. Strategies eligible for funding could include but are not limited to: hospital-based violence intervention programs, evidence-based street outreach programs, and focused deterrence strategies.

"Target population - Initiatives funded by CalVIP must be primarily focused on providing violence intervention services to the small segment of the population that is identified as having the highest risk of perpetrating or being victimized by violence in the near future.

"Match requirement - All applicants must provide a 100% match to state funds awarded (cash or in-kind).

"Pass-through requirement for cities - City applicants must agree to distribute at least 50% of the grant funds it receives to one or more of the following: a) CBOs or b) public agencies (other than the lead applicant agency) that are primarily dedicated to community safety or violence prevention.

"Reporting requirements - CalVIP grantees will be required to submit quarterly progress reports, a Local Evaluation Plan (6 months post-award) and a Final Local Evaluation Report." (https://www.grants.ca.gov/grants/california-violence-intervention-and-prevention-calvip-grant-program-2/ [as of March 30, 2023]).

The current requirements for a community based organization (CBO's) to receive a CalVIP grant include, but not limited to: awarding grants to high risk areas; be used to support, expand, and replicate evidence-based violence reduction initiatives that seek to interrupt cycles of violence; and have matching funding.

This bill would make comprehensive changes to CalVIP, including, but not limited to, who can apply, including cities and counties with tribal governments, how much the applicant/grantee can receive, the immediate distribution of grant monies, eliminating matching funds, and making the program permanent.

4) **Argument in Support**: According to *Urban Peace Institute,* "Because of CalVIP, hundreds of violence intervention professionals across the state have been able to provide targeted services to protect and heal thousands of people at highest risk of community gun violence. From 2019-2022, the CalVIP program has invested over $250 million in community violence reduction initiatives to promote individuals' safety, help them recover from trauma and exposure to violence, and help deter retaliatory shootings. The vast majority of these investments were just awarded in two rounds of grant awards made in July and October 2022.

"However, without further action, the Break the Cycle of Violence Act will expire at the end of 2024. To foster program stability, longer-term strategic planning, and renew the state's commitment to violence intervention professionals' lifesaving work, we thank you for introducing this bill to renew the Break the Cycle of Violence Act and write the CalVIP program more permanently into the public safety infrastructure of our state.

"Just a short time ago, when the Break the Cycle of Violence Act was enacted in 2019, California had provided stunningly little state investment or support *ever* for coordinated, community-based efforts to interrupt cycles of community gun violence. Other states and the federal government had also often similarly ignored this vital work, too often overlooking or tolerating astronomical rates of gun violence and massive racial and economic disparities in violent victimization and access to safety, particularly for young men and boys of color.

...

"In the years since passage of the Break the Cycle of Violence Act, grantees and other stakeholders have also continued to build a record of best practices and identified some barriers to access and success. Accordingly, we have developed priorities for relatively technical but vital changes to the CalVIP grant program's authorizing language to provide more definitions guidance for grant administrators and applicants, support broader investments for programs that train, certify, and support the field of violence prevention workers, and especially, to minimize administrative burdens and barriers to entry for gun violence intervention initiatives who lack significant financial resources to meet, for instance, the current 100% funding match requirement and all the accounting burdens that come with it for grantees and the state. We believe this Act would help effectively address these priorities, ensure more cities and organizations doing effective violence prevention work can focus on and expand that work, and build on the CalVIP program's important successes to date."

5) **Related Legislation**: AB 912 (Jones-Sawyer), would reinvest cost savings from Department of Corrections and Rehabilitation (CDCR) prison closures by funding early violence intervention programs, school-based physical and mental health services, and youth recreational activities.

6) **Prior Legislation**:

   a) AB 1603 (Wicks), Chapter 735, Statutes of 2019, codified the establishment of the CalVIP and the authority and duties of the BSCC in administering the program, including the selection criteria for grants and reporting requirements to the Legislature. .

   b) AB 18 (Levine), of the 2019-2020 Legislative Session, would have codified the CalVIP grant program and additionally imposed a firearm excise tax in the amount of $25 on the purchase of a new firearm. AB 18 was held on the Assembly Committee on Appropriations suspense file.

   c) AB 656 (Eduardo Garcia), of the 2019-2020 Legislative Session, would have appropriated $6,000,000 from the General Fund in order to establish the Office of Healthy and Safe Communities under the direction of the California Surgeon General and the Governor, which would have provided a comprehensive violence prevention strategy. AB 656 was held on the Senate Committee on Appropriations suspense file.

   d) SB 934 (Allen), of the 2017-2018 Legislative Session, would have codified the CalVIP grant program. SB 934 died in the Senate Appropriations Committee.

   e) AB 97 (Committee on Budget?), Chapter 14, Statutes of 2017, among other things, provided more than $9,000,000 to the BSCC for the purpose of administering CalVIP grants to cities and community-based organizations for violence intervention and prevention activities.

REGISTERED SUPPORT / OPPOSITION:
Support

Alameda Health System
Brady Campaign
California Partnership for Safe Communities
California Public Defenders Association (CPDA)
Californians for Safety and Justice (CSJ)
City of Oakland - Department of Violence Prevention
Equal Justice USA
Everytown for Gun Safety Action Fund
Giffords
Johns Hopkins Center for Gun Violence Solutions
Juma Ventures
Los Angeles County Hospital-based Violence Intervention Consortium
March for Our Lives Action Fund
Moms Demand Action for Gun Sense in America
Movement 4 Life
Prosecutors Alliance California
Shaphat Outreach
Soledad Enrichment Action, INC.
Southern California Crossroads
Students Demand Action for Gun Sense in America
The Health Alliance for Violence Intervention
Toberman Neighborhood Center
Urban Peace Institute
Youth Alive!

Opposition

None

Analysis Prepared by: Elizabeth Potter / PUB. S. / (916) 319-3744

Date of Hearing: April 25, 2023
Counsel: Cheryl Anderson

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 791 (Ramos) – As Amended March 30, 2023

As Proposed to be Amended in Committee

SUMMARY: Prohibits post-conviction bail in felony cases punishable by life without parole (LWOP), in addition to those punishable by death. Specifically, **this bill**:

1) Provides that the judicial officer must remand a person into custody who has been found guilty of an offense punishable by LWOP or death, and who is awaiting sentencing.

2) Removes the court's discretion to admit a person who has appealed or applied for probation to bail if the conviction is for an offense punishable by LWOP, in addition to offenses punishable by death.

EXISTING LAW:

1) Prohibits excessive bail. (U.S. Const., 8th Amend. & Cal. Const., art. I, § 12.)

2) States that a person shall be granted release on bail except for the following crimes when the facts are evident or the presumption great:

   a) Capital crimes;

   b) Felonies involving violence or sexual assault if the court finds by clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; and,

   c) Felonies where the court finds by clear and convincing evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released. (Cal. Const., art. I, § 12; see also Pen. Code, §§ 292, 1270.5.)

3) States that in setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the safety of the victim, the seriousness of the offense charged, the previous criminal record of the defendant, and their probability of appearing at the trial or hearing of the case. Public safety and the safety of the victim shall be the primary considerations. (Cal. Const., art. I, § 28, subd. (f)(3).)

4) Requires the court to consider the safety of the victim and the victim's family in setting bail and release conditions for a defendant. (Cal. Const., art. I, § 28, subd. (b)(3).)

5) Requires the superior court judges in each county to prepare, adopt, and annually revise a uniform, countywide bail schedule. (Pen. Code, § 1269b, subd. (c).)

6) Allows a court, by local rule, to prescribe the procedure by which the uniform countywide schedule of bail is prepared, adopted, and annually revised by the judges. If a court does not adopt a local rule, the uniform countywide schedule of bail shall be prepared, adopted, and annually revised by a majority of the judges. (Pen. Code, § 1269b, subd. (d).)

7) Provides that in adopting a uniform countywide schedule of bail for all bailable felony offenses the judges shall consider the seriousness of the offense charged. (Pen. Code, § 1269b, subd. (e).)

8) Provides that if a general verdict is rendered against the defendant, or a special verdict is given, they must be remanded if in custody, or if on bail, they shall be committed to the proper officer of the county to await the judgment of the court, unless, upon considering the protection of the public, the seriousness of the offense charged and proven, the previous criminal record of the defendant, the probability of the defendant failing to appear for the judgment of the court, and public safety, the court concludes the evidence supports its decision to allow the defendant to remain out on bail. (Pen. Code, § 1166.)

9) After conviction of an offense not punishable with death, a defendant who has applied for probation or who has appealed may be admitted to bail, as follows:

   a) As a matter of right, before judgment is pronounced pending application for probation in misdemeanor cases;

   b) As a matter of right, when the appeal is from a judgment imposing imprisonment in misdemeanors cases;

   c) As a matter of right, when the appeal is from a judgment imposing only a fine; and,

   d) As a matter of discretion in all other cases. (Pen. Code, § 1272.)

10) Provides that when exercising discretion, bail pending appeal must be ordered if the defendant demonstrates all of the following:

   a) By clear and convincing evidence, that they are not likely to flee. The court shall consider: the defendant's ties to the community, including their employment, the duration of their residence, their family attachments and their property holdings, the defendant's record of appearance at past court hearings or of flight to avoid prosecution, and the severity of the sentence the defendant faces;

   b) By clear and convincing evidence, that the defendant does not pose a danger to the safety of any other person or to the community. The court shall consider, among other factors, whether the defendant was convicted of a violent felony; and,

   c) That the appeal is not for the purpose of delay and, based on the record in the case, raises a substantial legal question that, if decided in favor of the defendant, is likely to result in reversal. A "substantial legal question" means a close question, one of more substance

than would be necessary to a finding that it was not frivolous. In assessing whether a substantial legal question has been raised on appeal by the defendant, the court shall not be required to determine whether it committed error. (Pen. Code, § 1272.1, subd. (a) – (c).)

11) Requires the court, in making its decision, to include a brief statement of reasons in support of an order granting or denying a motion for bail on appeal. The statement need only include the basis for the order with sufficient specificity to permit meaningful review. (Pen. Code, § 1272.1, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 791 is a common sense measure that aims to improve public safety. Addressing ambiguity within our judicial system will improve delivery of justice."

2) **Bail:** Bail is a security given to the court. The purpose is to guarantee a defendant's future court attendance as well as to protect public safety. In California, bail is a constitutional right except when the defendant is charged with: (1) a capital crime; (2) a felony involving violence or sex and the court finds that the person's release would result in great bodily harm to another; or (3) when the defendant has threatened another and the court finds it likely that the defendant might carry out that threat. (Cal. Const. art. I, § 12.) This language has been interpreted to pertain only to persons in custody on a charge of a criminal offense. The right to bail after conviction is statutory, not constitutional. (*In re Podesto* (1976) 15 Cal.3d 921, 929-931; *People v. Turner* (1974) 39 Cal.App.3d 682.)

3) **Bail Following an Adverse Verdict**: Penal Code section 1166 states that if a verdict is rendered against a defendant, the defendant must be remanded to await the court's judgment – i.e., pending sentencing. However, after "considering the protection of the public, the seriousness of the offense charged and proven, the previous criminal record of the defendant, the probability of the defendant failing to appear for the judgment of the court upon the verdict, and public safety," the court may allow the defendant to remain out on bail if it concludes the evidence supports this decision. (Pen. Code, § 1166.) That being said, Penal Code section 1270.5 provides that a "defendant charged with an offense punishable with death cannot be admitted to bail, when the proof of his or her guilt is evident or the presumption thereof great." This language has been read to refer to bail before trial. (*In re Law* (1973) 10 Cal.3d 21, 25 [The phrase "the proof is evident or the presumption [is] great" can be relevant only as a limitation on the bailable nature of a charged but unproven capital offense; otherwise the proof and presumption would have been conclusively and finally established."].)

   This bill would prohibit a court from allowing a defendant convicted of the most serious charges and facing LWOP from being allowed to remain on bail after conviction, and pending sentencing. This bill would also expressly prohibit post-conviction bail for those facing a death sentence while sentencing is pending.

4) **Bail on Appeal**: Following conviction of a noncapital offense, a defendant who has appealed may request the trial court to release them on bail. (Pen. Code, § 1272.) Bail is a matter of right in misdemeanor cases and cases where only a fine has been imposed. In all other cases, release on bail is subject to the court's discretion. (*Ibid.*) However, the court must release the defendant on bail if the appeal is not for the purpose of delay and raises a substantial legal question that, if decided in the defendant's favor, will likely result in reversal and the defendant demonstrates by clear and convincing evidence both that they do not pose a danger to other persons and are unlikely to flee. (Pen. Code, § 1272.1.)

   This bill would similarly remove a court's discretion to admit a defendant to bail on appeal following a conviction for an offense punishable by LWOP, in addition to following conviction of an offense punishable by death.

5) **Bail in the William McKay Case**: On December 29, 2022, a Riverside County Deputy Sheriff was killed by a defendant, William McKay, who was out on bail awaiting sentencing. McKay had been convicted of offenses punishable by life in prison.

   Criticism of the judge in that case followed these tragic events. However, some legal scholars expressed that criticism of the judge was not so clear. A veteran defense lawyer and former deputy district attorney, said that while it was a bad judgment call, it was not legally unreasonable. According to the director of criminal justice at the UC Irvine Law School, "The judge heard the testimony and adjusted the bail after finding (McKay) not guilty of the most serious charges, and $500,000 is a significant bail." (https://www.pressenterprise.com/2023/01/07/criticism-of-judge-in-the-killing-of-a-riverside-county-deputy-not-so-clear-legal-experts-say/.) She added, "There's no indication the judge didn't do what a judge is supposed to do: evaluate the facts, evaluate the criminal history and consider bail." (*Ibid.*) Experts also chided the prosecutor for a lack of forceful argument against reducing bail. According to a professor at Chapman University's Fowler School of Law, "All we get from the prosecution is a single sentence (opposing bail). There is nothing in the way of a coherent argument there…My overall reaction is that the prosecution's handling of this matter was far from satisfactory." (*Ibid.*)

   While a tragedy, this incident begs the question whether this judge's bad call and/or the prosecutor's unsatisfactory performance justify further curtailing judicial discretion in life cases. Post-conviction bail statutes – Penal Code sections 1166, 1272, and 1272.1 – put public safety considerations and severity of the sentence the defendant faces at the forefront of a judge's decision whether to grant bail. As proposed to be amended in committee, this bill would expressly prohibit post-conviction bail in the most serious cases – those in which the punishment is LWOP or death.

6) **Argument in Support**: According to the *Riverside County District Attorney's Office*, "Convicted capital murder defendants have no incentive to return for sentencing and every incentive to use violence against the public and law enforcement to avoid a return to custody. While Penal Code sections 1166 and 1272 address convicted murder defendants facing death sentences, the statutes do not explicitly address convicted murder defendants facing Life Without the Possibility of Parole (LWOP). By providing clarity to these legal provisions and addressing LWOP, AB 791 protects the public and ensures these dangerous convicted defendants remain in custody pending sentencing."

7) **Argument in Opposition**: According to the *California Public Defenders Association*, "This bill takes discretions away from the courts who know best whether an individual convicted of an offense for which they may be imprisoned should remain out on bail. The judge who presided over the trial, knows the facts, and who will ultimately sentence the individual is in the best position to determine if the individual should remain out of custody or remanded. The trial judge's discretion should not be curtailed."

8) **Prior Legislation**: AB 476 (Ackerman), Chapter 570, Statutes of 1999, directed a court to consider a defendant's background, crime of conviction and risk of flight when determining whether to leave a defendant out on bail pending sentencing.

REGISTERED SUPPORT / OPPOSITION:

Support

Arcadia Police Officers' Association
Burbank Police Officers' Association
California Association of Highway Patrolmen
California State Sheriffs' Association
Claremont Police Officers Association
Corona Police Officers Association
Culver City Police Officers' Association
Deputy Sheriffs' Association of Monterey County
Fullerton Police Officers' Association
Murrieta Police Officers' Association
Newport Beach Police Association
Palos Verdes Police Officers Association
Peace Officers Research Association of California (PORAC)
Placer County Deputy Sheriffs' Association
Pomona Police Officers' Association
Riverside County District Attorney
Riverside County Sheriff's Office
Riverside Police Officers Association
Riverside Sheriffs' Association
San Bernardino County Sheriff's Department
Santa Ana Police Officers Association
Upland Police Officers Association

Opposition

California Public Defenders Association (CPDA)

Analysis Prepared by: Cheryl Anderson / PUB. S. / (916) 319-3744

Amended Mock-up for 2023-2024 AB-791 (Ramos (A))

Mock-up based on Version Number 98 - Amended Assembly 3/30/23
Submitted by: Cheryl Anderson, Assembly Public Safety Committee

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

SECTION 1. Section 1166 of the Penal Code is amended to read:

1166. (a) Except as provided in subdivision (b), if a general verdict is rendered against the defendant, or a special verdict is given, they shall be remanded, if in custody, or if on bail they shall be committed to the proper officer of the county to await the judgment of the court upon the verdict, unless, upon considering the protection of the public, the seriousness of the offense charged and proven, the previous criminal record of the defendant, the probability of the defendant failing to appear for the judgment of the court upon the verdict, and public safety, the court concludes the evidence supports its decision to allow the defendant to remain out on bail.

(b) ~~Except as provided in subdivision (c), the judicial officer shall order that a person who has been found guilty of an offense for which the defendant faces an imprisonment of life, and is awaiting imposition or execution of sentence, be remanded unless any of the following apply:~~

~~(1) The judicial officer finds by clear and convincing evidence that the person is not likely to flee and does not pose a danger to the safety of another person or the community.~~

~~(2) The judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted.~~

~~(3) The prosecuting attorney has recommended that no sentence of imprisonment be imposed on the person.~~

~~(c)~~ The judicial officer shall order that a person who has been found guilty of an offense punishable by life in prison without the possibility of parole or death, and is awaiting imposition or execution of sentence, be remanded.

~~(d)~~ **(c)** When a defendant is committed or remanded pursuant to this section, their bail is exonerated, or if money is deposited instead of bail, it shall be refunded to the defendant or to the person who deposited money on behalf of the defendant.

SEC. 2. Section 1272 of the Penal Code is amended to read:

1272. ~~(a)~~ After ~~being found guilty~~ **conviction** of any offense **not punishable with death or life without the possibility of parole**, a defendant who has made application for probation or who has appealed may be admitted to bail ~~as a matter of right in the following circumstances~~:

~~(1)~~ **1. As a matter of right, before** ~~Before~~ judgment is pronounced pending application for probation in cases of misdemeanors**, or when the appeal is from a judgment imposing a fine only**.

~~(2)~~ **2. As a matter of right, before judgment is pronounced pending application for probation in cases of misdemeanors, or when the appeal is from a judgment imposing imprisonment in cases of misdemeanors.** ~~When appealing from a judgment imposing a fine only.~~

~~(3)~~ **3. As a matter of discretion is all other cases, except that a person convicted of an offense subject to this subdivision, who makes a motion for release on bail subsequent to a sentencing hearing, shall provide notice of the hearing on the bail motion to the prosecuting attorney at least five court days prior to the hearing.** ~~When appealing from a judgment imposing imprisonment in a misdemeanor case.~~

~~(b) (1) A defendant who has been found guilty of an offense for which the defendant faces an imprisonment of life, and is awaiting imposition or execution of sentence, shall be remanded and not admitted to bail unless any of the following apply:~~

~~(A) The judicial officer finds by clear and convincing evidence that the person is not likely to flee and does not pose a danger to the safety of another person or the community.~~

~~(B) The judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted.~~

~~(C) The prosecuting attorney has recommended that no sentence of imprisonment be imposed on the person.~~

~~(2) A person convicted of an offense subject to this subdivision, who makes a motion for release on bail subsequent to a sentencing hearing, shall provide notice of the hearing on the bail motion to the prosecuting attorney at least five court days prior to the hearing.~~

~~(c) Under no circumstances shall a person be admitted to bail for an offense punishable by life in prison without the possibility of parole or death.~~

SEC. 3. 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.

Date of Hearing: April 25, 2023
Counsel: Liah Burnley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 818 (Petrie-Norris) – As Amended March 29, 2023

SUMMARY: Requires peace officers to take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or otherwise lawful in specified circumstances. Specifically, **this bill**:

1) Requires peace officers to take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or otherwise lawful search as necessary for the protection of the peace officer or other persons present in any of the following circumstances:

   a) The peace officer is at the scene of a domestic violence incident involving a threat to human life or a physical assault;

   b) The peace officer is serving a protective order; or,

   c) The peace officer is serving a gun violence restraining order (GVRO).

2) Provides that a temporary restraining order, emergency protective order, or an order issued after a domestic violence hearing shall be served on the respondent by a law enforcement officer who receives a request from the petitioner to serve the order.

3) Provides that a fee shall not be charged for service of the order.

4) Requires law enforcement to enter a firearm obtained during service of the order into the Department of Justice's (DOJ) Automated Firearms System (AFS).

5) Requires law enforcement to enter a firearm obtained at the scene of a domestic violence incident into AFS.

EXISTING LAW:

1) Requires law enforcement agencies to enter firearms that have been reported stolen, lost, found, recovered, held for safekeeping, relinquished, or surrendered into AFS. (Pen. Code, § 11108.2.)

2) Requires peace officers at the scene of a domestic violence incident, as specified, or is serving a protective order or GVRO, as specified, to take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer. (Pen. Code, § 18250.)

3) Authorizes courts to issue protective orders in criminal cases, and specifies that when the defendant is charged with a crime involving domestic violence, the court shall consider issuing a protective order requiring the defendant to relinquish ownership or possession of any firearms. (Pen. Code, § 136.2.)

4) Provides that no fee shall be charged for serving an emergency protective order, protective order, or restraining order issued pursuant on a respondent who is in custody in specified domestic violence cases. (Gov. Code, § 26721.)

5) Requires a temporary restraining order or emergency protective order issued on request of the petitioner, to be served on the respondent, 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. (Fam. Code, § 6383.)

6) Authorizes a court to issue an emergency protective order in domestic violence cases, requires the law enforcement officer who requested the order to serve the order, and requires law enforcement officers to use every reasonable means to enforce the order. (Fam. Code, §§ 6240-6275.)

7) Authorizes a court to issue protective orders and domestic violence restraining orders (DVRO). When making a protective order, where both parties are in court, the court is required to inform both the petitioner and the respondent of the terms of the order, including that the respondent is prohibited from owning, possessing, purchasing, or receiving or attempting to own, possess, purchase, or receive a firearm or ammunition, and notice of the penalty for violation. Information provided shall include 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. (Fam. Code, § 6304.)

8) Requires, prior to a hearing on the issuance or denial of a protective order or DVRO, the court to ensure that a search is or has been conducted to determine if the subject of the proposed order has a registered firearm. If the results of the search indicate that the person possesses a firearm or ammunition, the court shall make a written record as to whether the person has relinquished the firearm or ammunition. If evidence of compliance with firearms prohibitions is not provided, the court shall order the clerk of the court to immediately notify, appropriate law enforcement officials of the issuance and contents of a protective order, information about the firearm or ammunition, and of any other information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to obtain those and any other firearms or ammunition owned, possessed, or controlled by the restrained person and to address any violation of the order with respect to firearms or ammunition as appropriate and as soon as practicable. (Fam. Code, § 6306.)

9) Prohibits a person subject to a protective order from owning, possessing, purchasing, or receiving a firearm or ammunition while the order is in effect. (Fam. Code, § 6389, subd. (a).)

10) Provides that, upon issuance of a protective order, the court must order the respondent to relinquish any firearm in the respondent's possession or control. After being served with the

order, the respondent must surrender the firearm immediately upon request by law enforcement. (Fam. Code, § 6389, subd. (c).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "In California, approximately one in three women and nearly as many men experience some form of domestic violence during their lifetimes. The risk of homicide increases by at least 500% when a firearm is present in the home during an incident of domestic violence. More than 80,000 domestic violence incidents are reported annually in California – and more go unreported.

   "Current law requires that a person who is subject to a domestic violence or gun violence restraining order be prohibited from having firearms and ammunition. When the person becomes prohibited, that information is entered into the statewide database (CLETS); if they currently own a registered firearm, the person who is now prohibited and known to have a firearm or firearms will show up in the state's Armed Prohibited Persons System (APPS). When serving the order, an officer is required to inform the now restrained party they are prohibited from having firearms and ammunition and remove firearms in plain sight, obtained through a consensual search, or relinquished by the party to comply with the order.

   "However, advocates for victims of domestic violence often report that when a protected party (victim of domestic violence) requests that law enforcement serve the order, some agencies refer victims to another law enforcement agency elsewhere. Victims are then forced to locate and drive to a subsequent local law enforcement agency and attempt to get them to serve the protective order and remove the firearms from the perpetrator.

   "This 'punting' by law enforcement agencies is concerning because many, if not all, victims are already living in fear for their lives. In addition, this referral to another agency undermines the goal of the firearms prohibitions and the APPS system: to identify those who currently own firearms, ensure the time between prohibition and relinquishment is reduced, and to rapidly get guns out of the hands of those who courts have determined under state statutes should not have them.

   "AB 818 strengthens the goal of these policies and APPS by requiring that law enforcement agencies designate one or more officers to be responsible for serving court-mandated domestic violence or gun violence restraining orders. This bill will help protect victims of domestic violence and those at risk of harming themselves or others – and make our communities safer."

2) **Existing Provisions Regarding Protective Orders and Possession of Firearms in Domestic Violence Incidents:** The bill would enact identical language in the Family Code from Section 18250 of the Penal Code, which sets out the procedure a peace officer must undertake in a domestic violence incident involving a firearm. Specifically, Penal Code Section 18250 requires a peace officer to take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or otherwise lawful search as necessary for the protection of the peace officer or other persons present in any of the following circumstances: where the peace officer is at the scene of a domestic violence

incident involving a threat to human life or a physical assault; the peace officer is serving a protective order related to domestic violence; or where the peace officer is serving a gun violence restraining order. (Pen. Code, § 18250.)

This bill also specifies that law enforcement must enter a firearm obtained during service of the order or obtained at the scene of a domestic violence incident into the AFS. The AFS is a repository of firearm records maintained by the DOJ, in order to assist in the investigation of crime, the prosecution of civil actions by city attorneys, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found firearms. (DOJ, *Regulations: Automated Firearms System (AFS) Information Updates* <https://www.oag.ca.gov/firearms/regs/afs> [as of April 17, 2023].) Under existing law, law enforcement agencies are required to enter firearms that have been reported stolen, lost, found, recovered, held for safekeeping, relinquished, or surrendered into the AFS. (Pen. Code, § 11108.2.)

3) **Service of DVROs**: Under existing law, law enforcement is required to serve DVROs on a respondent by the law enforcement officer who is present at the scene of the domestic violence incident. (Fam. Code, § 6383.) According to background information provided by the author, "advocates for victims of domestic violence often report that when a protected party requests that law enforcement serve the order, some agencies refer victims to another law enforcement agency elsewhere." This bill would require law enforcement officials to additionally serve DVROs upon the respondent at the request of the petitioner.

   This bill would also prohibit a fee for service of a domestic violence order. This is consistent with Government Code Section 26721, which waives fees for service of domestic violence orders when a respondent is in custody. Accordingly, this this bill would extend that fee waiver to all DVROs, whether or not the respondent is in custody.

4) **Argument in Support**: According to *Giffords*, "California currently prohibits a person who is subject to a domestic violence, civil harassment, workplace violence prevention or gun violence restraining order from having firearms and ammunition. [...]

   "When serving the order, an officer is required to inform the now restrained party they are prohibited from having firearms and ammunition and remove firearms in plain sight, obtained through a consensual search, or relinquished by the party to comply with the order. [...]

   "Unfortunately, advocates for victims of domestic violence often report that when a victim of domestic violence requests that law enforcement serve the firearm prohibiting order, some agencies refer victims to another law enforcement agency elsewhere or refuse to serve the order. Victims are then forced to locate and drive to a subsequent local law enforcement agency and attempt to get them to serve the protective order and remove the firearms from the prohibited party. Alternatively, they must rely on non-law enforcement process servers or lay people who cannot remove those firearms from the prohibited person. Without service, the order is not enforceable and the person who the court sought to prohibit is not in fact prohibited from having firearms.

   "This is concerning because it undermines the goal of the firearms prohibitions (to increase safety) and the APPS system: to identify those who currently own firearms, ensure the time between prohibition and relinquishment is reduced, and to rapidly get guns out of the hands

of those who courts have determined under state statutes should not have them. [...]

"Research shows that having these types of policies in place reduces domestic violence-related homicides by 16 percent; we appreciate this bill's focus on these lifesaving remedies.

"AB 818 strengthens the goal of these policies and APPS by requiring that law enforcement agencies serve court-mandated restraining orders upon request. This bill will help protect victims of domestic violence and help make our communities safer."

5) **Related Legislation**:

a) AB 36 (Gabriel), would prohibit any person subject to a civil or criminal protective order issued on or after July 1, 2024, from owning, possessing, purchasing, or receiving a firearm or ammunition within three years after expiration of the order. AB 36 is being heard by this Committee today.

b) AB 303 (Davies), would require the Attorney General to provide local law enforcement agencies enumerated information related to prohibited persons APPS database. AB 303 is pending hearing in the Assembly Appropriations Committee.

c) AB 732 (M. Fong), would, among other things, require a defendant not in custody to relinquish their firearms within 48 hours. AB 732 is being heard by this Committee today.

d) SB 2 (Portantino), would, among other things, add misdemeanor convictions for several firearm offenses to the list of offenses that trigger a 10-year ban on the purchase and possession of firearms. SB 2 is pending in the Senate Appropriations Committee.

6) **Prior Legislation**:

a) AB 178 (Ting), Chapter 45, Statutes of 2022, allocates $40 million to the Judicial Council to support a court-based firearm relinquishment program to ensure the consistent and safe removal of firearms from individuals who become prohibited from owning or possessing firearms and ammunition pursuant to court order and required the Judicial Council to at prioritize courts with higher numbers of DVROs.

b) SB 320 (Eggman), Chapter 685, Statutes of 2021, required the court to determine whether a the respondent has complied with the firearm relinquishment requirement and required every law enforcement agency in the state to develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms or ammunition.

c) AB 809 (Feuer), Chapter 745, Statutes of 2011, required the DOJ to collect and retain firearm transaction information for all types of firearms, including long guns.

d) SB 950 (Brulte), Chapter 944, Statutes of 2001, created APPS.

REGISTERED SUPPORT / OPPOSITION:

Support

Giffords
Weave INC

Opposition

None submitted.

Analysis Prepared by: Liah Burnley / PUB. S. / (916) 319-3744

Date of Hearing: April 25, 2023
Chief Counsel: Sandy Uribe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 1125 (Hart) – As Amended March 2, 2023

SUMMARY: Eliminates the court's authority to suspend a person's driver's license and order the person not to drive for 30 days if they fail to make an agreed upon installment payment for bail or a fine.

EXISTING LAW:

1) Authorizes the clerk of the court to make an agreement with a defendant to pay a fine in installment payments. (Veh. Code, § 40510.5, subd. (a).)

2) Authorizes the court to charge a failure to appear or issue an arrest warrant for a failure to appear when the defendant fails to make an installment payment pursuant to an installment agreement. (Veh. Code, § 40510.5, subd. (e).)

3) Provides that a person who willfully fails to pay bail or a fine in installments as agreed to, is guilty of a misdemeanor regardless of the full payment of the bail or fine after that time. (Veh. Code, § 40508, subd. (b).)

4) Authorizes a court to impound a person's driver's license and order the person not to drive for a period of 30 days if they fail to make an agreed upon installment payment for bail or a fine. (Veh. Code, § 40508, subd. (d).)

5) Prohibits a person from driving a vehicle with a suspended license and punishes a violation as a misdemeanor with imprisonment in county jail for not more than six months, or by a fine ranging from $300 to $1000, or both. (Veh. Code, § 14601.1, subds. (a) & (b).)

6) Authorizes a peace officer to impound a vehicle for 30 days if a person was driving with a suspended license. (Veh. Code, § 14602.6, subd. (a)(1).)

FISCAL EFFECT: Unknown

COMMENTS:

1) **Author's Statement**: According to the author, "AB 1125 ends the practice of a court impounding the driver's licenses of low-income individuals who miss traffic fine installment payments. The Legislature has already protected individuals with unpaid fines who are not on installment plans. AB 1125 ensures that all Californians are able to maintain their driver's license regardless of their ability to pay off money owed for traffic infractions. Correcting this inequity is necessary to mitigate the impact on marginalized communities."

2) **Correlation Between Access to a Vehicle and Income Stability**: California is, for the most part, a notoriously difficult state to live in without a car. Some urban areas are manageable with a car, but many of these areas also have some of the highest costs of living in the country. For example, while San Francisco and Los Angeles were recently named as the first and 14th best city in the country for people without cars, Los Angeles has also been identified as the country's most expensive place to live and San Francisco the 20th most expensive. (Bomey, USA Today, *No Car? San Francisco, Portland, Washington D.C., Boston, New York Among Best Cities to Live in Without a Vehicle* (2021), https://www.usatoday.com/story/money/cars/2021/01/05/best-cities-live-without-car-san-francisco-portland-new-york/4125602001/; U.S. News, *Most Expensive Places to Live in the U.S. in 2022-2023*, https://realestate.usnews.com/places/rankings/most-expensive-places-to-live [as of April 15, 2023].) In fact 13 of the top 20 most expensive cities in the country were in California. (*Ibid.*) In other parts of the state, however, public transportation is sparse, unreliable, or nonexistent, requiring people without cars to take extraordinary measures to ensure they can get to work, school, or medical appointments. (See, e.g., Bergstrom, *Are Fresno's Car-Less Residents Being Left Behind? What it Means to Our Community*, Fresno Bee (Feb. 6, 2022), https://www.fresnobee.com/fresnoland/article255147402.html [as of April 15, 2023].)

Lack of access to a car is not just an inconvenience. It can have a significant impact on a person's well-being. "[I]ndividuals without reliable access to automobiles can reach far fewer opportunities within a reasonable travel time compared with those who travel by automobile"—meaning fewer job opportunities, and fewer opportunities for economic advancement. (Pendall, *et al.*, *Driving to Opportunity: Understanding the Links among Transportation Access, Residential Outcomes, and Economic Opportunity for Housing Voucher Recipients*, Urban Institute (Mar. 2014), at p. 3, https://www.urban.org/research/publication/driving-opportunity-understanding-links-among-transportation-access-residential-outcomes-and-economic-opportunity-housing-voucher-recipients [as of April 15, 2023.) Moreover, "[c]ars facilitate searching for and commuting to jobs and therefore increase the likelihood of finding and retaining employment." (*Ibid.*) In other words, "it is unsurprising that private automobiles are positively associated with employment opportunities for low-income and minority adults." (*Ibid.*)

When a car is so vital to maintaining employment, the loss of a car—or a license—can be ruinous. The Committee on Revision of the Penal Code has noted that "research shows that license suspensions have dramatic economic consequences. Data from New Jersey concludes that 42% of people surveyed lost a job while their license was suspended, 45% reported not finding another job, and 88% reported reduced income. Another study showed that women with young children receiving public assistance were twice as likely to find employment if they had a DL — a bigger impact than having graduated from high school." (Committee on Revision of the Penal Code, Annual Report 2020, at p. 3, available at: http://www.clrc.ca.gov/CRPC/Reports/Annual_Reports.html [as of April 16, 2023].)

California has already recognized the problem of suspending a person's driver's license for failure to pay court fines and fees, in legislation enacted in 2017 to prohibit license suspensions for failure to pay traffic fines. (AB 103 (Public Safety), Chap. 17, Stats. 2017.) The purpose of that provision was to prevent people from losing their driver's license because of their inability to pay a traffic fine. As then-Governor Jerry Brown noted, the suspension did not help the state collect on unpaid fines, but could "send low-income people

into a cycle of job losses and more poverty." (Los Angeles Times (Jun. 20, 2017), California no longer will suspend driver's licenses for traffic fines - Los Angeles Times (latimes.com) [as of April 15, 2023].)

Over the last five years, the Legislature has removed most suspensions of driver's licenses unrelated to driving behavior, including suspensions related to failure to pay traffic fines, failure to appear in court, vandalism, truancy, providing alcohol to a person under 21, purchasing, possessing or consuming alcohol under the age of 21, soliciting a prostitute, or a minor possessing a firearm. In doing so, the Legislature has recognized the harm caused to a person by suspending their driver's license for reasons unrelated to dangerous driving.

While AB 103 (Committee on Budget), Chapter 17, Statutes of 2017 removed the license suspension for failure to pay a traffic fine; that measure may have inadvertently left out the provision this bill seeks to remove. Individuals that are seeking installment payments are likely the low income populations AB 103 intended to protect from license suspensions. This bill furthers the goals of the Legislature by removing the authority for courts to suspend a license for missing an installment payment.

3) **Argument in Support**: According to the *Prosecutors Alliance of California*, "Under current law, if a person has agreed to pay a traffic ticket in installments and fails to keep up with the payments, the court may impound their driver's license and order the person not to drive for up to 30 days. This penalty disproportionately impacts low-income people of color, impeding their ability to take their children to school, buy groceries, and access healthcare and employment –making it even less likely they will be able to make their payments. Many people may have no choice but to continue driving without a valid license, risking more fines, fees and other penalties and making the streets less safe for all.

"AB 1125 will simply repeal the authorization for courts to impound a person's driver's license or limit their driving simply because they are behind on their payments for traffic tickets. This is consistent with steps the Legislature has taken over the last several years to limit suspension of driver's licenses to safety related matters."

4) **Related Legislation**: AB 1266 (Kalra), would eliminate the authority to issue a bench warrant for the failure to pay, or to appear in court, on an infraction ticket. AB 1266 is pending in the Assembly Appropriations Committee.

5) **Prior Legislation**:

   a) AB 1746 (Friedman), Chapter 800, Statutes of 2022, prohibited the court from suspending a person's driver's license for the failure to appear in court.

   b) SB 1055 (Kamlager), Chapter 830 Statutes of 2022, prohibited, effective January 1, 2025, the Department of Child Support Services from seeking the denial, withholding, or suspension of a driver's license from low-income child support obligors.

   c) SB 485 (Beall), Chapter 505, Statutes of 2019, repealed various license suspensions for reasons unrelated to unsafe driving, including vandalism, controlled substance of alcohol use, firearm use, and soliciting or engaging in prostitution.

d) AB 2685 (Lackey), Chapter 717, Statutes of 2018 eliminated license suspensions for minors who are found to be habitually truant.

e) AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, removed the driver's license suspension for failure to pay a traffic fine.

REGISTERED SUPPORT / OPPOSITION:

Support

ACLU California Action
California Public Defenders Association
Californians for Safety and Justice
Californians United for A Responsible Budget
Communities United for Restorative Youth Justice
Fair Chance Project
Initiate Justice
Lawyers' Committee for Civil Rights of The San Francisco Bay Area
Legal Services for Prisoners With Children
Prosecutors Alliance California
Sister Warriors Freedom Coalition

Opposition

None on file

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