

Date of Hearing: February 28, 2023
Counsel: Mureed Rasool

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

AB 303 (Davies) – As Introduced January 26, 2023

As Proposed to be Amended in Committee

SUMMARY: Requires the Attorney General to provide local law enforcement agencies (LEAs) enumerated information related to prohibited persons in the Armed Prohibited Persons (APPS) database. Specifically, **this bill:**

- 1) Requires the Attorney General to provide LEAs the following information regarding prohibited persons in the APPS database:
 - a) Personal identifying information;
 - b) Case status;
 - c) Prohibition type or reason;
 - d) Prohibition expiration date;
 - e) Known firearms associated to the prohibited person; and,
 - f) Information regarding previous contacts with the prohibited person, if applicable.
- 2) Requires LEAs to designate at least one employee to receive the information listed above.

EXISTING LAW:

- 1) Requires the Attorney General to establish and maintain an online database to be known as the Prohibited Armed Persons File (APPS) the purpose of which is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1996, as indicated by a record in the Consolidated Firearms Information System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. (Pen. Code § 30000, subd. (a).)
- 2) Limits access to the information contained in the APPS database to certain entities specified by law, through the California Law Enforcement Telecommunications System, for the purpose of determining if persons are armed and prohibited from possessing firearms. (Pen. Code § 30000, subd. (b).)
- 3) Requires that upon entry into the Automated Criminal History System of a disposition for a specified conviction or any firearms possession prohibition identified by the federal National Instant Criminal Background Check System (NICS), the Department of Justice (DOJ) shall

determine if the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm. (Pen. Code § 30005, subd. (a).)

- 4) Requires that upon an entry into any department-automated information system that is used for the identification of persons who are prohibited by state or federal law from acquiring, owning, or possessing firearms, the DOJ shall determine if the subject has an entry in the Consolidated Firearms Information System indicating ownership or possession of a firearm on or after January 1, 1996, or an assault weapon registration, or a .50 BMG rifle registration. (Pen. Code § 30005, subd. (b).)
- 5) Requires the DOJ, once it has determined that a subject has an entry in the Consolidated Firearms Information System to enter the following information into the file:
 - a) The subject's name;
 - b) The subject's date of birth;
 - c) The subject's physical description;
 - d) Any other identifying information regarding the subject that is deemed necessary by the Attorney General;
 - e) The basis of the firearms prohibition; and,
 - f) A description of all firearms owned or possessed by the subject, as reflected by the Consolidated Firearms Information System. (Pen. Code § 30005, subd. (c).)
- 6) Requires the Attorney General to provide investigative assistance to LEAs to better ensure the investigation of individuals who are in the APPS database. (Pen. Code § 30010.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "The recent tragedies in both Monterey Park and Half Moon Bay illustrate a dire need for California to reform how our state's gun violence prevention programs are operating. Our Armed Prohibited Persons System (APPS) should be a tool used by local law enforcement agencies to ensure those deemed unfit to possess a firearm do not do so. Unfortunately, however, there have been reports of little to no communication between state authorities at the California Department of Justice (DOJ) and local officials. This must change. AB 303 is a common-sense measure to require all investigative notes and reports collected by DOJ regarding individuals on the APPS database be shared with our local law enforcement agencies."
- 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 LEAs in order to help address the backlog, calling such efforts “force multipliers.” (*Id.* at 5, 11, 29-30, 34.) It noted joint efforts such as the Contra Costa County Anti-Violence Support Effort Task Force and the Tulare County Agencies Regional Gun Violence Enforcement Team, as well as funding efforts like the Gun Violence Reduction Program which financed local law enforcement agency APPS operations on their own. (*Id.* at 28-33.)

LEA 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 at 33.)

Aside from some of the LEA efforts mentioned above, there seems to be room for improving local law agencies involvement with APPS. According to a CalMatters article from 2021, the DOJ had for years prepared a monthly report for LEAs regarding APPS individuals in their respective jurisdiction. (CalMatters. *Outgunned: Why California's groundbreaking firearms law is failing*. (Jul. 21, 2021.) <<https://calmatters.org/justice/2021/07/california-gun-law-failing/>> [as of Feb. 21, 2023].) CalMatters asked 400 LEAs about these monthly reports; 80 of them acknowledged the reports and more than 150 agencies responded saying they didn't have such reports. (*Id.*)

This bill would require that the DOJ provide LEAs certain investigative information regarding prohibited persons. It also requires LEAs to designate a contact to receive this information. These requirements, in tandem, ensure that the DOJ will continue to inform LEAs regarding prohibited persons in their jurisdiction and that LEAs will be more aware of such information.

- 4) **Related Legislation:** AB 29 (Gabriel), would require the Department of Justice (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 currently pending hearing in the Assembly Committee on Health.
- 5) **Prior Legislation:**
 - a) SB 129 (Committee on Budget and Fiscal Review) Chapter 69, Statutes of 2021, allocated funds to the DOJ to disburse to local sheriffs' departments for APPS enforcement operations, and outlined reporting requirements for participating sheriffs' departments.
 - b) 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. AB 340 was vetoed by the Governor.
 - c) SB 94 (Public Safety Omnibus) Chapter 25, Statutes of 2019, required the 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.

REGISTERED SUPPORT / OPPOSITION:

Support

None

Opposition

None

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AMENDMENTS TO ASSEMBLY BILL NO. 303

Amendment 1

On page 2, in line 1, after "30010." insert:

(a)

Amendment 2

On page 2, strike out lines 2 and 3, in line 4, strike out "Prohibited Armed Persons File," and insert:

assistance

Amendment 3

On page 2, below line 6, insert:

(b) The Attorney General shall provide local law enforcement agencies all of the following information relating to prohibited persons listed in the Prohibited Armed Persons File in their jurisdiction:

- (1) Personal identifying information.
- (2) Case status.
- (3) Prohibition type or reason.
- (4) Prohibition expiration date.
- (5) Known firearms associated to the prohibited person.
- (6) Information regarding previous contacts with the prohibited person, if

applicable.

(c) Local law enforcement agencies shall designate at least one employee to receive the information listed in subdivision (b).

SEC. 2. 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.

