
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 1927 **Hearing Date:** June 19, 2018
Author: Bonta
Version: May 25, 2018
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Firearms: Prohibition: Voluntary List*

HISTORY

Source: Author

Prior Legislation: SB 580 (Jackson), 2014, failed in Assembly Appropriations.
SB 140 (Leno), Ch. 2, Stats. of 2013

Support: Bay Area Student Activists; California Chapters of the Brady Campaign; City of Santa Monica; County of Los Angeles; Giffords Law Center; Jewish Public Affairs Committee of California; Los Angeles County District Attorney's Office; Physicians for Social Responsibility, San Francisco Bay Area Chapter; one individual

Opposition: None known

Assembly Floor Vote: 66 - 0

PURPOSE

The purpose of this bill is to require the Department of Justice (DOJ) to study options, and recommend an approach, for allowing a person to register himself or herself on a list or database that prohibits the person from being able to purchase a firearm. The bill also requires DOJ to reports its findings and recommendations to the Legislature by January 1, 2020.

Existing law provides for an automated system for tracking firearms and assault weapon owners who might fall into a prohibited status. The online database, which is currently known as the APPS, cross-references all handgun and assault weapon owners across the state against criminal history records to determine persons who have been, or will become, prohibited from possessing a firearm subsequent to the legal acquisition or registration of a firearm or assault weapon. (Pen. Code, § 30000, et seq.)

Existing law prohibits persons who know or have reasonable cause to believe that the recipient is prohibited from having firearms and ammunition to supply or provide the same with firearms or ammunition. (Pen. Code, §§ 27500 and 30306; and Welf. & Inst. Code, § 8101.)

Existing law provides that persons convicted of felonies and certain violent misdemeanors are prohibited from owning or possessing a firearm. (Pen. Code, §§ 29800 and 29805.)

Existing law prohibits a person from possessing or owning a firearm that is subject to specified restraining orders. (Pen. Code, § 29825.)

Existing law specifies that a person who has been taken into custody on a 72 hour hold because that person is a danger to himself, herself, or to others, assessed as specified, and admitted to a designated facility because that person is a danger to himself, herself, or others, shall not own or possess any firearm for a period of five years after the person is released from the facility. (Welfare and Inst. Code, 8103, subd (f)(1).)

Existing law states that a person taken into custody on a 72 hour hold may possess a firearm if the superior court has found that the people of the State of California have not met their burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner. (Welfare and Inst. Code, 8103, subd (f).)

Existing law establishes the Dealer's Record of Sale (DROS) Account, a special fund, which receives various firearm registration fees, and which may be used by the DOJ for firearms related regulatory activities, including enforcement activities related to possession. (Pen. Code, §§ 28225 and 28235.)

Existing law establishes the Firearms Safety and Enforcement Special Fund (FSESF), a continuously appropriated fund, for use by the DOJ for specified purposes related to weapons and firearms regulation. Monies in the fund may be used for the following purposes:

- 1) Implementing and enforcing the provisions of the Firearm Safety Certificate program;
- 2) Implementing and enforcing various gun law enforcement programs; and,
- 3) Establishment, maintenance, and upgrading of equipment and services necessary for firearms dealers to comply with the DROS system. (Pen. Code, §28300.)

Existing law requires the DOJ, upon submission of firearm purchaser information, to examine its records to determine if the purchaser is prohibited from possessing, receiving, owning, or purchasing a firearm. Existing law prohibits the delivery of a firearm within 10 days of the application to purchase, or, after notice by the department, within 10 days of the submission to the department of any corrections to the application to purchase, or within 10 days of the submission to the department of a specified fee. (Pen. Code, §§ 28200 to 28250.)

Existing law mandates those dealers notify DOJ that persons in applications actually took possession of their firearms. (Pen. Code, § 28255.)

Existing law requires if a dealer cannot legally deliver a firearm to return the firearm to the transferor, seller, or person loaning the firearm. (Pen. Code, § 28050, subd. (d).)

Existing law requires that in connection with any sale, loan or transfer of a firearm, a licensed dealer must provide the DOJ with specified personal information about the seller and purchaser as well as the name and address of the dealer. This personal information of buyer and seller required to be provided includes the name; address; phone number; date of birth; place of birth;

occupation; eye color; hair color; height; weight; race; sex; citizenship status; and a driver's license number; California identification card number; or, military identification number. A copy of the DROS, containing the buyer and seller's personal information, must be provided to the buyer or seller upon request. (Pen. Code, §§ 28160, 28210, and 28215.)

Existing law appropriates \$24,000,000 from the DROS Special Account to DOJ to address the backlog in APPS and the illegal possession of firearms by individuals in APPS. (Pen. Code, § 30015.)

This bill requires the DOJ to study options, and recommend an approach, for allowing a person to register himself or herself on a list or database that prohibits the person from being able to purchase a firearm.

This bill also requires DOJ to reports its findings and recommendations to the Legislature by January 1, 2020.

COMMENTS

1. Need for This Bill

According to the author:

Suicide has surpassed homicides as the most prevalent cause of death resulting from the misuse of a firearm in the state. More people who die by suicide use a firearm than all other methods combined. In 2016, 1,094 people died by gun suicide in California.

Despite California's 10-day waiting period, a study found that Californians are 57 times more likely to commit suicide in the first week after purchasing a gun. Firearms are the most lethal and most common method of suicide. About 85% of suicide attempts with a firearm end in death while many of the most widely used suicide attempt methods have fatality rates below 5%.

Suicide can be an impulsive decision. People usually make a decision to take their life in less than a day. The Brady Campaign cited that 90% of people who survive a suicide attempt do not go on to die by suicide, suggesting that suicidal impulses may dissipate with time. However, suicide attempts with a firearm rarely afford a second chance.

This decision could be preventable. A recent study found that a close to a third of the general population and more than 40% of those with previously diagnosed mental health concerns would add their name to a Do Not Sell List.

In 2014, California authorized a law enforcement officer or immediate family member to petition to the court to seek a Gun Violence Restraining Order to temporarily prohibit a person from owning a firearm for 21 days or a year if there is reasonable cause to believe that the person poses a danger to themselves or others. In 2016, the courts issued 86 Gun Violence Restraining Orders.

California has enacted some of the strongest gun laws but does not allow for people to self-restrict their ability to purchase a firearm. Strategies to reduce firearm deaths must include policies to prevent suicide by firearm. AB 1927 would allow people to put a barrier between themselves and the most lethal method of suicide.

2. Individuals Prohibited from Possessing Firearms in California

California has several laws that prohibit certain persons from purchasing firearms. All felony convictions lead to a lifetime prohibition, while a conviction of specified misdemeanors result in a 10-year prohibition. A person may be prohibited from possessing a firearm due to a protective order or as a condition of probation. Another prohibition is based on the mental health of the individual. If a person communicates to his or her psychotherapist a serious threat of physical violence against a reasonably-identifiable victim or victims, the person is prohibited from owning or purchasing a firearm for five years, starting from the date the psychotherapist reports to local law enforcement the identity of the person making the threat. (Welf. & Inst. Code, § 8100, subd. (b)(1).) If a person is admitted into a facility because that person is a danger to himself, herself, or to others, the person is prohibited from owning or purchasing a firearm for five years. (Welf. & Inst. Code, § 8103, subd. (f).) For the provisions prohibiting a person from owning or possessing a firearm based on a serious threat of violence or based on admittance into a facility as a threat to self or others, the person has the right to request a hearing whereby the person could restore his or her right to own or possess a firearm if a court determines that the person is likely to use firearms or other deadly weapons in a safe and lawful manner. (Welf. & Inst. Code, §§ 8100, subd. (b)(1) and 8103, subd. (f).)

DOJ developed the Armed Prohibited Persons System (APPS) for tracking handgun and assault weapon owners in California who may pose a threat to public safety. (Pen. Code, § 30000 et seq.) APPS collects information about persons who have been, or will become, prohibited from possessing a firearm subsequent to the legal acquisition or registration of a firearm or assault weapon. DOJ receives automatic notifications from state and federal criminal history systems to determine if there is a match in the APPS for a current California gun owner. DOJ also receives information from courts, local law enforcement and state hospitals as well as public and private mental hospitals to determine whether someone is in a prohibited status. When a match is found, DOJ has the authority to investigate the person's status and confiscate any firearms or weapons in the person's possession. Local law enforcement also may request from DOJ the status of an individual, or may request a list of prohibited persons within their jurisdiction, and conduct an investigation of those persons. (Pen. Code, § 30010.) Since the development of APPS, California has added long-gun transactions to the list of registered firearms and has added restraining orders to the list of prohibiting events.¹

Any additional approaches to place individuals on the list of individuals banned from possessing firearms would contribute to a backlog in processing APPS matches.

3. Suicide and Firearms

The fact that a person possesses a firearm increases their risk of suicide. Suicide attempts that involve the use of a gun are more likely to be successful. In a survey of 36 wealthy nations, the United States was unique in having the highest overall firearm mortality rate and the highest

¹ <http://oag.ca.gov/sites/all/files/agweb/pdfs/publications/sb-140-supp-budget-report.pdf>

proportion of suicides by firearms. There is strong evidence that access to firearms, whether from household availability or a new purchase, is associated with increased risk of suicide. The risk of suicide by guns is far higher in states with high rates of gun ownership than in those with low ownership rates. The increased risk of suicide applies not only to the gun owner but to others living in a household with guns.²

In 2010, 50.5 percent of suicides were committed using a firearm. Suicide attempts with guns are likelier to result in death. The CDC [found](#) that in 2001, 85 percent of suicide attempts involving guns resulted in death, significantly above [other methods](#). A [study](#) looking at hospital admissions for suicides and suicide attempts in Illinois found that 96 percent of firearm cases resulted in death, while only 6.7 percent of cases involving cuts and 6.5 percent of cases involving poisoning did.³

4. Use of Voluntary Do Not Sell Lists to Reduce Gun Suicide

Law Professor Frederick Vars wrote an article entitled “Self Defense Against Gun Violence” in October 2015 about the potential policy benefits of providing individuals an opportunity to voluntarily add his or her own name to the list of those already prohibited from purchasing a firearm. Professor Vars listed three ways that such a policy might reduce the numbers of suicide by firearms.

The first and most direct pathway is by preventing the purchase of a firearm for quick use in a suicide attempt. . . ., research shows that waiting periods reduce gun prevalence, and that lower gun prevalence reduces suicides. This will reduce the chances that there will be a gun in the home should suicidal thoughts arise in the future.

Second, introducing and advertising a voluntary do not purchase program may reduce gun access even among people who do not participate. Suicide prevention efforts already advise putting firearms out of reach of people at high risk. Launching a new federal program to reduce suicide by voluntarily curbing access to firearms will help disseminate well-established findings showing the benefits of getting existing firearms out of the house. Some people and their families may decide to remove or lock up firearms even if they do not opt for a voluntary do not purchase program.

Third, providing a relatively easy avenue for people concerned about suicide to reduce their own risk of self-harm may help alleviate the despair and anxiety that pushes them toward suicide in the first place. It should be noted that an individual who has volunteered for do not purchase program may be less likely to purchase a firearm at all, even during non-suicidal periods. Voluntary do not purchase programs would “enhance patients’ self-efficacy and can help to create a sense that suicidal urges can be mastered,” which in turn “may help [patients] feel less vulnerable and less at the mercy of their suicidal thoughts.” In short, allowing people to protect themselves in this way may give them back a sense of control over their lives. Relatedly, hopelessness is a significant risk factor for suicide. Providing an opportunity for distressed individuals to take one concrete

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3518361/>

³ <https://www.vox.com/2014/8/12/5993075/depression-suicide-13-facts>

step to prevent suicide may itself mitigate feelings of hopelessness. This could reduce non-firearm suicides as well.⁴

This bill is asking for the DOJ to study and make recommendations about establishing a do not sell list in California.

5. Encouraging Participation in Voluntary Do Not Sell List

In order to maximize the likelihood that individuals will avail themselves of the Do Not Sell List, it is important to keep barriers to participation in such list to a minimum. Some ways to keep barriers to a minimum are to ensure confidentiality of information, make it easy to sign up on, and be removed from, a Do Not Sell List. Without confidentiality, it is less likely that an individual would voluntarily place themselves on a list that identifies the individual as someone at risk for suicide or a danger to possess a gun. If an individual does not think that they will be able to easily remove themselves from a voluntary do not sell list at a point in their life when they are no longer troubled by the circumstances that led to their willingness to include themselves on the do not sell list, such belief would present a disincentive to sign up in the first place. For the same reason, if the individual is required to jump through burdensome hoops to be removed from the do not sell list, it reduces the incentive for an individual to sign up. There is a concern that an individual might ask to remove themselves from the voluntary Do Not Sell List, before their issues (mental health, or otherwise) have resolved, thereby, creating a potential danger. Given that that inclusion on the list is voluntary, keeping barriers low to encourage participation seems critical.

-- END --

⁴ <http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3462&context=bcl>