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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** SB 22                      **Hearing Date:** March 21, 2016  
**Author:** Hill  
**Version:** March 13, 2017  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** JRD

**Subject:** *Firearms: Law Enforcement Agencies: Agency Firearm Accounting*

### HISTORY

Source: Author

Prior Legislation: Senate Bill 869 (Hill)—Chapter 651, Statutes of 2016

Support: California Chapters of the Brady Campaign to Prevent Gun Violence; Firearms Policy Coalition

Opposition: None known

### PURPOSE

*The purpose of this bill is to require a law enforcement agency to adopt a written procedure to account for firearms that are owned, acquired, maintained, sold, loaned, lost, stolen, or in any way possessed by that agency or by an employee of that agency, as specified. The bill additionally requires that a record of firearms that are lost, stolen, or otherwise disposed of be entered into the Automated Firearms System (AFS), as specified.*

*Existing law* requires, in a variety of circumstances, that within ten days of the date that a firearm is sold, delivered, or transferred acquired by the agency, a record of the same must be entered as an institutional weapon into AFS by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. (Penal Code §§ 26600, 26610, 26615, 26620, 27050, 27060, 27065, 27400, 27410, 27415, 27600, 27610, 27615, 27620, 27920, 28400, 28410, 28415, 30150, 30160, 30165, 31705, 31715, 31720, 34355, 34365, and 34370.)

*Existing law* requires, commencing July 1, 2017, every person to report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost. Every person who reports a firearm lost or stolen is required to notify the local law enforcement agency within five days if the firearm is subsequently recovered by the person. A person is not required to report the loss or theft of a firearm that is an antique firearm. (Penal Code § 25250.)

*Existing law* exempts the following from having to report their firearm lost or stolen:

- Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.
- Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.
- Any person who is licensed, pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and who reports the theft or loss in accordance with Section 923(g)(6) of Title 18 of the United States Code, or the successor provision thereto, and applicable regulations issued thereto.
- Any person whose firearm was lost or stolen prior to July 1, 2017.

(Penal Code § 25255.)

*Existing law* requires that every sheriff or police chief submit a description of each firearm that has been reported lost or stolen directly into AFS. (Penal Code § 25260.)

*This bill* requires a law enforcement agency to adopt a written procedure to account for all firearms that are owned, acquired, maintained, sold, loaned, lost, stolen, or in any way possessed by that agency, or by an employee of that agency that are used or carried for purposes of carrying out the official duties of his or her employment. The procedure must, at a minimum, include all of the following:

- The maintenance and accurate written accounting of all agency firearms and firearms used or carried by an employee within the course of his or her employment, that are not owned by the agency, including a method for updating the written accounting on a regular basis as firearms are destroyed, acquired, sold, loaned, lost, or stolen.
- Reconciliation of the written accounting and firearms that are in possession of the agency or its employees, or both. The reconciliation must occur no less than once every year.
- A requirement that agency employees report to the agency those lost or stolen firearms within five days of the date they know or reasonably should have known that the firearms were lost or stolen.
- A process for disciplining agency employees who fail to report lost or stolen firearms that is consistent with current disciplinary procedures.

*This bill* requires that within ten days of the date that a firearm is lost, stolen, or otherwise disposed of by the law enforcement agency, or by an employee of the law enforcement agency, a record of that disposition shall be entered into the AFS by the law enforcement agency, as specified.

*This bill* provides the following definitions:

- “Law enforcement agency” means every district attorney, municipal police department, sheriff’s department, district attorney’s office, county probation department, and social services agency, the Department of Justice, the Department of Corrections and Rehabilitation, the Department of the California Highway Patrol, the police department of any campus of the University of California, the California State University, or

community college, and every agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

- “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.

## COMMENTS

### 1. Need for This Bill

According to the author:

Law enforcement agencies and their officers are responsible for protecting the public and preserving the public peace and therefore have the responsibility of maintaining their guns in a manner that comports with their public safety mission.

However, law enforcement agencies and officers are a source of lost and stolen guns and the guns can end up in the hands of criminals and nothing in current law sufficiently requires law enforcement agencies to account for, keep track of, or in any other way monitor their guns.

Three recent investigative news reports found that hundreds, if not thousands, of guns owned by law enforcement agencies and their officers have been stolen or lost and are largely unaccounted for. The key details are:

- A survey of at least 240 California law enforcement agencies conducted by the San Jose Mercury News found that between 2010 and mid-2016, 944 guns were unaccounted for and fewer than 20% have been recovered. The guns range from pistols to assault rifles to grenade launchers. As an example, the San Jose police department lost track of 324 guns. The article found that many departments do not have policies to keep track of guns or to audit their armory. A spokesperson for the Oakland Police Department said they have “‘done a very poor job’ of keeping track of guns.” The article reported that some of the guns have ended up in the hands of criminals, such as gangs like the Nortenos. [Footnote omitted.]
- An Orange County Register article titled, *Police Might Not Know Where Their Guns Are, and The Law Says That’s OK*, found that over a five year period, 134 southern California police agencies lost track of 329 guns. This includes handguns, assault rifles like M16’s, and a grenade launcher. According to the article, “dozens of these guns wound up in the hands of criminals.” [Footnote omitted.] The LA County Sheriff’s office admitted to not knowing how many of their guns are missing. Similarly, the Long Beach Police Department stated that it does not keep track of its guns.
- A 2015 NBC Bay Area investigation found that over 500 guns from eight different police agencies have gone unaccounted for since 2010. According to the report, a spokesperson for the San Jose Police Department, who was responsible for 324 of the unaccounted guns, said that “decades of poor recordkeeping is to blame for the missing guns.” [Footnote omitted.]

Not all law enforcement agencies reported lost or stolen guns. For example, according to the reporting done by the OC Register, 54 of the 134 law enforcement agencies stated that none of their guns were missing. Further, while many law enforcement agencies don't have a process to keep track of their guns, some do. For example, the Hermosa Beach Police Department has an armory audit process.

While SB 22 focuses on law enforcement agencies and their officers being stewards of their guns, guns lost by, or stolen from, law enforcement agencies and officers are part of a much larger problem. According to another NBC Bay Area report, almost 70,000 total guns were reported as missing between 2010 and 2015, a number based on California Department of Justice files. The news agency, in their analysis, found that 2,655 of the guns were connected to a crime. [Footnote omitted.]

## 2. Effect of This Bill

Under existing law, there are a variety of circumstances in which a law enforcement agency is required to enter a firearm into AFS, including when the firearm is acquired by an agency or when a firearm is reported lost or stolen. Additionally, existing law requires that firearms be reported lost or stolen within five days of the discovery that the firearm is missing. Law enforcement is exempt from this reporting requirement if the officer reports the missing firearm to his or her agency.

This legislation seeks to strengthen existing law by requiring law enforcement to have a policy that includes:

- The maintenance and accurate written accounting of all agency firearms and firearms used or carried by an employee within the course of his or her employment, that are not owned by the agency, including a method for updating the written accounting on a regular basis as firearms are destroyed, acquired, sold, loaned, lost, or stolen.
- Reconciliation of the written accounting and firearms that are in possession of the agency or its employees, or both. The reconciliation must occur no less than once every year.
- A requirement that agency employees report to the agency those lost or stolen firearms within five days of the date they know or reasonably should have known that the firearms were lost or stolen.
- A process for disciplining agency employees who fail to report lost or stolen firearms that is consistent with current disciplinary procedures.

This legislation, additionally, requires law enforcement agencies to report into AFS when a firearm is lost or stolen.

## 3. Author's Amendment

The author will offer the following technical amendment:

Within 10 days of the date that a firearm ~~described in subdivision (a)~~ that is *owned, acquired, maintained, or in any way possessed by that agency, or by an employee of that agency that are*

*used or carried for purposes of carrying out the official duties of his or her employment,* is lost, stolen, or otherwise disposed of by the law enforcement agency, or by an employee of the law enforcement agency a record of that disposition shall be entered into the AFS via the CLETS by the law enforcement agency. An agency without access to the AFS shall arrange with the sheriff of the county in which the agency is located to input this information via the system.

**-- END --**