



BACKGROUND

In 2006, 3,345 people died from firearm-related injuries in California and an additional 4,491 people were hospitalized for non-fatal gunshot wounds.ⁱ California law forbids convicted felons and certain misdemeanants from possessing firearms, recognizing that these individuals represent the greatest risk for future firearm violence. Gaps in the law, however, have allowed many of these criminals to retain firearms they owned before being convicted. As a result, the Department of Justice estimates that as many as 60,000 convicted criminals currently possess firearms in California despite being prohibited by law.ⁱⁱ AB 814 seeks to reduce this significant threat to public safety.

EXISTING LAW

Penal Code § 12021 prohibits persons from possessing firearms when they have been convicted of a felony or one of a number of misdemeanor offenses. Using a notice and form created by the Department of Justice, defendants are advised to transfer their firearms to a third party designee who must, within thirty days, relinquish the firearms to a local law enforcement agency, sell or transfer them to a third party through a licensed firearms dealer, or sell them to a dealer. Existing law provides no mechanism, however, to ensure that these firearms are actually relinquished.

Penal Code § 12021.3 also allows prohibited persons who relinquish their firearms to a law enforcement agency to sell those firearms. Currently, any firearms relinquished to or seized by law enforcement must be retained and stored by law enforcement for at least 180 days, during which the prohibited person may sell the weapons. This law places an undue burden upon law enforcement to store the firearms of convicted criminals for a lengthy period of time.

THIS BILL

ESTABLISHES A CLEAR PROCESS FOR TIMELY FIREARM RELINQUISHMENT

AB 814 will facilitate enforcement of existing state laws prohibiting illegal firearm possession by establishing a clear process and timeline for firearm relinquishment by prohibited persons. Under the bill, upon conviction of a crime disqualifying a defendant from firearm possession, a defendant must be instructed by the judge that he or she is prohibited from owning or possessing any firearms. The judge must also provide the defendant with a notice and form describing the manner in which firearms may be relinquished and the penalties attached to failure to comply.

Upon conviction, a prohibited person must transfer his or her firearms to a designee who must sell the firearms to a dealer, sell or transfer them to a third party through a dealer, or relinquish them to local law enforcement. If the prohibited person is not in law enforcement custody following conviction, the relinquishment process must be completed within 5 days. If the prohibited person remains in custody, the process must be completed within 14 days.

REQUIRES PROHIBITED PERSONS TO DECLARE FIREARM OWNERSHIP

Under the bill, all prohibited persons must, within the relinquishment period, submit a form to local law enforcement stating: 1) whether or not they owned any firearms to relinquish; and 2) if so, to whom any firearms were relinquished.

ENCOURAGES LAW ENFORCEMENT TO RETRIEVE PROHIBITED WEAPONS

The bill encourages local law enforcement to review each defendant's sworn submissions against the Department of Justice's handgun transfer databases to help identify prohibited persons who have lied about firearm ownership or relinquishment in their sworn submissions.

The bill also encourages law enforcement to retrieve prohibited weapons whenever possible.

REDUCES BURDEN ON LAW ENFORCEMENT

This bill reduces the length of time during which law enforcement must retain a prohibited person's firearms following relinquishment, from 180 days to 30 days. If a prohibited person has not, through his or her designee, sold a firearm by the end of the 30 days, it becomes the property of the law enforcement agency.

BILL STATUS

2/26/09: Introduced

4/14/09: ASM Public Safety Committee (7-0)

5/28/09: ASM Appropriations (12-0)

6/3/09: ASM Floor (72-3)

Proceeding to Senate

SUPPORT

Sponsor: Legal Community Against Violence

- California Partnership to End Domestic Violence
- City of Los Angeles
- City of Oakland
- Ken James, Chief of Police for the City of Emeryville
- Randy G. Adams, Chief of Police for the City of Glendale
- Chris Magnus, Chief of Police for the City of Richmond
- Craig T. Steckler, Chief of Police for the City of Fremont
- Paul M. Walters, Chief of Police for the City of Santa Ana
- Blair Ullring, Chief of Police for the City of Stockton
- Kamala D. Harris, District Attorney City and County of San Francisco
- Tom Orloff, District Attorney for Alameda County
- Coalition Against Gun Violence (Santa Barbara)
- Coalition To Stop Gun Violence
- Crime Victims United
- Friends Committee on Legislation
- Brady Campaign to Prevent Gun Violence, California Chapters

- Oakland/Alameda County, Orange County, Nevada County and Sacramento Chapters of Brady Campaign to Prevent Gun Violence
- Peace Over Violence (LACAAW)
- Physicians for Social Responsibility
- Rainbow Services, Ltd.
- Women Against Gun Violence
- Youth ALIVE!

FOR MORE INFORMATION

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Legal Community Against Violence
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ⁱ California Department of Health Services, Epidemiology and Prevention for Injury Control Branch (EPIC), Firearm Injuries in California (2009), at

http://www.applications.dhs.ca.gov/epicdata/content/st_firearm.htm.

ⁱⁱ California Department of Justice, Office of the Attorney General, *Brown Cracks Down on Illegal Gun Possession*, News Release, Dec. 10, 2007, at:

<http://ag.ca.gov/newsalerts/release.php?id=1505>.