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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 8. MISCELLANEOUS [8050 - 8266] (*Division 8 repealed and added by Stats. 1967, Ch. 1667.*)

CHAPTER 3. Firearms [8100 - 8108] (*Chapter 3 added by Stats. 1967, Ch. 1667.*)

8100. (a) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon, if on or after January 1, 1992, he or she has been admitted to a facility and is receiving inpatient treatment and, in the opinion of the attending health professional who is primarily responsible for the patient's treatment of a mental disorder, is a danger to self or others, as specified by Section 5150, 5250, or 5300, even though the patient has consented to that treatment. A person is not subject to the prohibition in this subdivision after he or she is discharged from the facility.

(b) (1) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon for a period of five years if, on or after January 1, 2014, he or she communicates to a licensed psychotherapist, as defined in subdivisions (a) to (e), inclusive, of Section 1010 of the Evidence Code, a serious threat of physical violence against a reasonably identifiable victim or victims. The five-year period shall commence from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The prohibition provided for in this subdivision shall not apply unless the licensed psychotherapist notifies a local law enforcement agency of the threat by that person. The person, however, may own, possess, have custody or control over, or receive or purchase any firearm if a superior court, pursuant to paragraph (3) and upon petition of the person, has found, by a preponderance of the evidence, that the person is likely to use firearms or other deadly weapons in a safe and lawful manner.

(2) Upon receipt of the report from the local law enforcement agency pursuant to subdivision (c) of Section 8105, the Department of Justice shall notify by certified mail, return receipt requested, a person subject to this subdivision of the following:

(A) That he or she is prohibited from possessing, having custody or control over, receiving, or purchasing any firearm or other deadly weapon for a period of five years commencing from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The notice shall state the date when the prohibition commences and ends.

(B) That he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(3) (A) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, have custody or control over, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or upon its own motion, the superior court may transfer the petition to the county in which the person resided at the time of the statements, or the county in which the person made the statements. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8105 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney is notified of the hearing date by the clerk of the court. The court, upon motion of the petitioner establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this paragraph.

(B) The people shall bear the 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.

(C) If the court finds at the hearing that the people have not met their burden as set forth in subparagraph (B), the court shall order that the person shall not be subject to the five-year prohibition in this section on the ownership, control, receipt, possession, or purchase of firearms, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of any firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(D) If the district attorney declines or fails to go forward in the hearing, the court shall order that the person shall not be subject to the five-year prohibition required by this subdivision on the ownership, control, receipt, possession, or purchase of firearms, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of any firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall, within 15 days, delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(E) Nothing in this subdivision shall prohibit the use of reports filed pursuant to this section to determine the eligibility of a person to own, possess, control, receive, or purchase a firearm if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm.

(c) "Discharge," for the purposes of this section, does not include a leave of absence from a facility.

(d) "Attending health care professional," as used in this section, means the licensed health care professional primarily responsible for the person's treatment who is qualified to make the decision that the person has a mental disorder and has probable cause to believe that the person is a danger to self or others.

(e) "Deadly weapon," as used in this section and in Sections 8101, 8102, and 8103, means any weapon, the possession or concealed carrying of which is prohibited by any provision listed in Section 16590 of the Penal Code.

(f) "Danger to self," as used in subdivision (a), means a voluntary person who has made a serious threat of, or attempted, suicide with the use of a firearm or other deadly weapon.

(g) A violation of subdivision (a) of, or paragraph (1) of subdivision (b) of, this section shall be a public offense, punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for not more than one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(h) The prohibitions set forth in this section shall be in addition to those set forth in Section 8103.

(i) Any person admitted and receiving treatment prior to January 1, 1992, shall be governed by this section, as amended by Chapter 1090 of the Statutes of 1990, until discharged from the facility.

(Amended by Stats. 2013, Ch. 747, Sec. 1. (AB 1131) Effective January 1, 2014.)

8101. (a) Any person who shall knowingly supply, sell, give, or allow possession or control of a deadly weapon to any person described in Section 8100 or 8103 shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(b) Any person who shall knowingly supply, sell, give, or allow possession or control of a firearm to any person described in Section 8100 or 8103 shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.

(c) "Deadly weapon," as used in this section has the meaning prescribed by Section 8100.

(Amended by Stats. 2011, Ch. 15, Sec. 627. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

8102. (a) Whenever a person, who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of the firearm or other deadly weapon.

"Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

(b) (1) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall issue a receipt describing the deadly weapon or any firearm and listing any serial number or other identification on the firearm and shall notify the person of the procedure for the return, sale, transfer, or destruction of any firearm or other deadly weapon which has been confiscated. A peace officer or law

enforcement agency that provides the receipt and notification described in Section 33800 of the Penal Code satisfies the receipt and notice requirements.

(2) If the person is released, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.

(3) Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

(4) For purposes of this subdivision, the procedure for the return, sale, or transfer of confiscated firearms includes the procedures described in this section and the procedures described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code.

(5) In lieu of destroying a firearm that has been confiscated pursuant to this section that is a nuisance, unclaimed, abandoned, or otherwise subject to destruction, a law enforcement agency may retain or transfer the firearm as provided in Section 34005 of the Penal Code.

(c) Upon the release of a person as described in subdivision (b), the confiscating law enforcement agency shall have 30 days to initiate a petition in the superior court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to result in endangering the person or others, and to send a notice advising the person of his or her right to a hearing on this issue. The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition. Including any extension of time granted in response to an ex parte request, a petition shall be filed within 60 days of the release of the person from a health facility.

(d) If the law enforcement agency does not initiate proceedings within the 30-day period, or the period of time authorized by the court in an ex parte order issued pursuant to subdivision (c), it shall make the weapon available for return upon compliance with all applicable requirements, including the requirements specified in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code.

(e) The law enforcement agency shall inform the person that he or she has 30 days to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond will result in a default order forfeiting the confiscated firearm or weapon. For a confiscated firearm, the period of forfeiture is 180 days pursuant to Section 33875 of the Penal Code, unless the person contacts the law enforcement agency to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Section 33870 of the Penal Code. For the purpose of this subdivision, the person's last known address shall be the address provided to the law enforcement officer by the person at the time of the person's detention or apprehension.

(f) If the person responds and requests a hearing, the court clerk shall set a hearing, no later than 30 days from receipt of the request. The court clerk shall notify the person and the district attorney of the date, time, and place of the hearing.

(g) If the person does not respond within 30 days of the notice, the law enforcement agency may file a petition for order of default, allowing the law enforcement agency to destroy the firearm in 180 days from the date the court enters default unless the person contacts the law enforcement agency to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Section 33870 of the Penal Code.

(h) If, after a hearing, the court determines that the return of the firearm or other deadly weapon would likely endanger the person or others, the law enforcement agency may destroy the firearm within 180 days from the date that the court makes that determination, unless the person contacts the law enforcement agency to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Section 33870 of the Penal Code.

(Amended by Stats. 2013, Ch. 747, Sec. 2. (AB 1131) Effective January 1, 2014.)

8103. (a) (1) A person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm, other deadly weapon, or ammunition without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice of a certificate issued as described in paragraph (1) as soon as possible, but not later than one court day after issuing the certificate.

(3) A person described in paragraph (1) shall, in accordance with applicable state law and local procedure, relinquish to law enforcement a firearm, other deadly weapon, or ammunition in their custody or control within 14 days of a court order finding the person to be a person described in paragraph (1) and submit a receipt to the court to show proof of relinquishment.

(b) (1) A person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or a dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of former Section 262 of the Penal Code or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition.

(2) The court shall notify the Department of Justice of the court order finding the person to be a person described in paragraph (1) as soon as possible, but not later than one court day after issuing the order.

(3) A person described in paragraph (1) shall, in accordance with applicable state law and local procedure, relinquish to law enforcement a firearm, other deadly weapon, or ammunition in their custody or control within 14 days of the court order finding the person to be a person described in paragraph (1) and submit a receipt to the court to show proof of relinquishment.

(c) (1) A person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of a crime other than those described in subdivision (b) shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall notify the Department of Justice of the court order finding the person to be a person described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice when it finds that the person has recovered their sanity as soon as possible, but not later than one court day after making the finding.

(3) A person described in paragraph (1) shall, in accordance with applicable state law and local procedure, relinquish to law enforcement a firearm, other deadly weapon, or ammunition in their custody or control within 14 days of the court order finding the person to be a person described in paragraph (1) and submit a receipt to the court to show proof of relinquishment.

(d) (1) A person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall notify the Department of Justice of the court order finding the person to be mentally incompetent, as described in paragraph (1), as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice when it finds that the person has recovered competence as soon as possible, but not later than one court day after making the finding.

(e) (1) A person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court that imposed the conservatorship found that possession of a firearm, other deadly weapon, or ammunition by the person would present a danger to the safety of the person or to others. Upon placing a person under conservatorship, and prohibiting firearm, other deadly weapon, or ammunition possession by the person, the court shall notify the person of this prohibition.

(2) The court shall notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm, other deadly weapon, or ammunition possession by the person, as described in paragraph (1), as soon as possible, but not later than one court day after placing the person under conservatorship. The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm, other deadly weapon, or ammunition by the person would no longer present a danger to the safety of the person or others, the court shall notify the Department of Justice as soon as possible, but not later than one court day after terminating the conservatorship.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the Department of Justice, and shall be used only to determine eligibility to purchase or possess a firearm, other deadly weapon, or ammunition. A person who knowingly furnishes that information for any other purpose is guilty of a misdemeanor. All the information concerning a person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) (1) (A) A person who has been (i) taken into custody as provided in Section 5150 because that person is a danger to themselves or to others, (ii) assessed within the meaning of Section 5151, and (iii) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to themselves or others shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, a firearm, other deadly weapon, or ammunition for a period of five years after the person is released from the facility.

(B) A person who has been taken into custody, assessed, and admitted as specified in subparagraph (A), and who was previously taken into custody, assessed, and admitted as specified in subparagraph (A) one or more times within a period of one year preceding the most recent admittance, shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, a firearm for the remainder of their life.

(C) A person described in this paragraph, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition if the superior court has, pursuant to paragraph (5), found that the people of the State of California have not met their burden pursuant to paragraph (6).

(2) (A) (i) For each person subject to this subdivision, the facility shall, within 24 hours of the time of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

(ii) A report submitted pursuant to this paragraph shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition.

(B) Facilities shall submit reports pursuant to this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that they are prohibited from owning, possessing, controlling, receiving, or purchasing a firearm, other deadly weapon, or ammunition for a period of five years or, if the person was previously taken into custody, assessed, and admitted to custody for a 72-hour hold because they were a danger to themselves or to others during the previous one-year period, for life. The facility shall inform the person that they are required to relinquish a firearm, other deadly weapon, or ammunition that the person owns, possesses, or controls within 72 hours of discharge from the facility and how to relinquish a firearm, other deadly weapon, or ammunition according to state law and local procedures. Simultaneously, the facility shall inform the person that they may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition. The facility shall also provide the person with a copy of the most recent "Patient Notification of Firearm Prohibition and Right to Hearing Form" prescribed by the Department of Justice and a copy of the completed form to the Department of Justice in a manner prescribed by the Department of Justice. The Department of Justice shall update this form in accordance with the requirements of this section and distribute the updated form to facilities by January 1, 2020. The form shall include information regarding how the person was referred to the facility. The form shall include an authorization for the release of the person's mental health records, upon request, to the appropriate court, solely for use in the hearing conducted pursuant to paragraph (5). A request for the records may be made by mail to the custodian of records at the facility, and shall not require personal service. The facility shall not submit the form on behalf of the person subject to this subdivision.

(4) The Department of Justice shall provide the form upon request to a person described in paragraph (1). The Department of Justice shall also provide the form to the superior court in each county. The Department of Justice shall also provide a copy of the form upon the request of a law enforcement agency solely for investigative purposes. A person described in paragraph (1) may make a single request for a hearing at any time during the five-year period or period of the lifetime prohibition. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) A person who is subject to paragraph (1) who has requested a hearing from the superior court of the county of their residence for an order that they may own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of their detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of

the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 60 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 30 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county behavioral health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code shall be admissible at the hearing under this section.

(6) The people shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use a firearm, other deadly weapon, or ammunition in a safe and lawful manner.

(7) If the court finds at the hearing set forth in paragraph (5) that the people have not met their burden as set forth in paragraph (6), the court shall order that the person shall not be subject to the five-year prohibition or lifetime prohibition, as appropriate, in this section on the ownership, control, receipt, possession, or purchase of a firearm, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of a firearm. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(8) If the district attorney declines or fails to go forward in the hearing, the court shall order that the person shall not be subject to the five-year prohibition or lifetime prohibition required by this subdivision on the ownership, control, receipt, possession, or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall, within 15 days, delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of a firearm.

(9) This subdivision does not prohibit the use of reports filed pursuant to this section to determine the eligibility of persons to own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm, other deadly weapon, or ammunition.

(10) If the court finds that the people have met their burden to show by a preponderance of the evidence that the person would not be likely to use a firearm, other deadly weapon, or ammunition in a safe and lawful manner and the person is subject to a lifetime firearm prohibition because the person had been admitted as specified in subparagraph (A) of paragraph (1) more than once within the previous one-year period, the court shall inform the person of their right to file a subsequent petition no sooner than five years from the date of the hearing.

(11) A person subject to a lifetime firearm prohibition is entitled to bring subsequent petitions pursuant to this subdivision. A person shall not be entitled to file a subsequent petition, and shall not be entitled to a subsequent hearing, until five years have passed since the determination on the person's last petition. A hearing on subsequent petitions shall be conducted as described in this subdivision, with the exception that the burden of proof shall be on the petitioner to establish by a preponderance of the evidence that the petitioner can use a firearm in a safe and lawful manner. Subsequent petitions shall be filed in the same court of jurisdiction as the initial petition regarding the lifetime firearm prohibition.

(12) (A) A person who is subject to paragraph (1), within 72 hours of discharge from a facility, shall relinquish a firearm, other deadly weapon, or ammunition that they own, possess, or control in a safe manner by any of the following methods:

(i) Surrender to the control of a law enforcement agency.

(ii) Sell or transfer to a licensed firearms dealer, as specified in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal Code.

(iii) Transfer or cause to be transferred to a licensed firearms dealer for storage during the duration of the prohibition pursuant to Section 29830 of the Penal Code.

(iv) Sell or transfer to a nonprohibited third party with whom the prohibited person does not live using a licensed firearms dealer pursuant to Section 28050 of the Penal Code.

(B) The law enforcement agency or licensed firearms dealer taking possession of a firearm, other deadly weapon, or ammunition from a person relinquishing a firearm, other deadly weapon, or ammunition pursuant to this paragraph shall issue a receipt to the person at the time of relinquishment.

(C) The "Patient Notification of Firearm Prohibition and Right to Hearing Form" described in paragraph (3) shall include information about how a person will relinquish their firearm, other deadly weapon, or ammunition pursuant to subparagraph (A).

(g) (1) (A) A person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, a firearm, other deadly weapon, or ammunition for a period of five years.

(B) A person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) (A) For each person certified for intensive treatment under paragraph (1), the facility shall, within 24 hours of the certification, submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. A report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(B) Facilities shall submit reports pursuant to this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) A person who is subject to paragraph (1) may petition the superior court of the county of their residence for an order that they may own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition. At the time the petition is filed, the clerk of the court shall set a hearing date within 60 days of receipt of the petition and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of their detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 30 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county behavioral health director of the petition, and the county behavioral health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, a declaration, police report, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use a firearm, other deadly weapon, or ammunition in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase a firearm, other deadly weapon, or ammunition, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of a firearm, other deadly weapon, or ammunition. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition from the person's state mental health firearms prohibition system information.

(h) (1) For all persons identified in subdivisions (f) and (g), a facility shall report to the Department of Justice, as specified in those subdivisions, except a facility shall not report a person under subdivision (g) if the same person was previously reported under subdivision (f).

(2) Additionally, a facility shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g). However, a report shall not be filed for persons who are discharged within 31 days after the date of admission.

(i) (1) A person, who has been found by a court, on or after July 1, 2024, to be prohibited from owning or controlling a firearm, other deadly weapon, or ammunition because they are a danger to themselves or others and has been granted pretrial mental health diversion pursuant to subdivision (m) of Section 1001.36 or subdivision (p) of Section 1001.80 of the Penal Code, shall not own,

possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, a firearm, other deadly weapon, or ammunition until the person successfully completes diversion or their rights are restored pursuant to paragraph (4) of subdivision (g).

(2) The court shall notify the Department of Justice of the court order finding the person to be an individual described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice that the person has successfully completed diversion as soon as possible, but not later than one court day after completion.

(j) Every person who owns or possesses or has custody or control of, or purchases or receives, or attempts to purchase or receive, a firearm, other deadly weapon, or ammunition in violation of this section shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code or in a county jail for not more than one year.

(k) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

(l) A notice or report required to be submitted to the Department of Justice pursuant to this section shall be submitted in an electronic format, in a manner prescribed by the Department of Justice.

(m) This section shall remain in effect only until September 1, 2025, and as of that date is repealed.

(Amended by Stats. 2024, Ch. 924, Sec. 2.4. (SB 1025) Effective January 1, 2025. Repealed as of September 1, 2025, by its own provisions. See later operative version added by Sec. 2.5 of Stats. 2024, Ch. 924.)

8103. (a) (1) A person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm, other deadly weapon, or ammunition without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the department of a certificate issued as described in paragraph (1) as soon as possible, but not later than one court day after issuing the certificate.

(3) A person described in paragraph (1) shall, in accordance with applicable state law and local procedure, relinquish to law enforcement a firearm, other deadly weapon, or ammunition in their custody or control within 14 days of a court order finding the person to be a person described in paragraph (1) and submit a receipt to the court to show proof of relinquishment.

(b) (1) A person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or a dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of former Section 262 of the Penal Code or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18715, 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition.

(2) The court shall notify the Department of Justice of the court order finding the person to be a person described in paragraph (1) as soon as possible, but not later than one court day after issuing the order.

(3) A person described in paragraph (1) shall, in accordance with applicable state law and local procedure, relinquish to law enforcement a firearm, other deadly weapon, or ammunition in their custody or control within 14 days of the court order finding the person to be a person described in paragraph (1) and submit a receipt to the court to show proof of relinquishment.

(c) (1) A person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of a crime other than those described in subdivision (b) shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall notify the Department of Justice of the court order finding the person to be a person described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice

when it finds that the person has recovered their sanity as soon as possible, but not later than one court day after making the finding.

(3) A person described in paragraph (1) shall, in accordance with applicable state law and local procedure, relinquish to law enforcement a firearm, other deadly weapon, or ammunition in their custody or control within 14 days of the court order finding the person to be a person described in paragraph (1) and submit a receipt to the court to show proof of relinquishment.

(d) (1) A person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370, 1370.02, or 1370.1 of the Penal Code or the law of any other state or the United States, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other state or the United States.

(2) The court shall notify the Department of Justice of any court order finding a person to be mentally incompetent to stand trial as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice when it finds that the person has recovered competence as soon as possible, but not later than one court day after making the finding.

(e) (1) A person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism, shall not purchase or receive, or attempt to purchase or receive, or have possession, custody, or control of a firearm, other deadly weapon, or ammunition while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court that imposed the conservatorship found that possession of a firearm, other deadly weapon, or ammunition by the person would present a danger to the safety of the person or to others. Upon placing a person under conservatorship, and prohibiting firearm, other deadly weapon, or ammunition possession by the person, the court shall notify the person of this prohibition.

(2) The court shall notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm, other deadly weapon, or ammunition possession by the person, as described in paragraph (1), as soon as possible, but not later than one court day after placing the person under conservatorship. The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm, other deadly weapon, or ammunition by the person would no longer present a danger to the safety of the person or others, the court shall notify the Department of Justice as soon as possible, but not later than one court day after terminating the conservatorship.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the Department of Justice, and shall be used only to determine eligibility to purchase or possess a firearm, other deadly weapon, or ammunition. A person who knowingly furnishes that information for any other purpose is guilty of a misdemeanor. All the information concerning a person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) (1) (A) A person who has been (i) taken into custody as provided in Section 5150 because that person is a danger to themselves or to others, (ii) assessed within the meaning of Section 5151, and (iii) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to themselves or others shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, a firearm, other deadly weapon, or ammunition for a period of five years after the person is released from the facility.

(B) A person who has been taken into custody, assessed, and admitted as specified in subparagraph (A), and who was previously taken into custody, assessed, and admitted as specified in subparagraph (A) one or more times within a period of one year preceding the most recent admittance, shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, any firearm for the remainder of their life.

(C) A person described in this paragraph, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition if the superior court has, pursuant to paragraph (5), found that the people of the State of California have not met their burden pursuant to paragraph (6).

(2) (A) (i) For each person subject to this subdivision, the facility shall, within 24 hours of the time of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

(ii) A report submitted pursuant to this paragraph shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition.

(B) Facilities shall submit reports pursuant to this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that they are prohibited from owning, possessing, controlling, receiving, or purchasing a firearm, other deadly weapon, or ammunition for a period of five years or, if the person was previously taken into custody, assessed, and admitted to custody for a 72-hour hold because they were a danger to themselves or to others during the previous one-year period, for life. The facility shall inform the person that they are required to relinquish a firearm, other deadly weapon, or ammunition that the person owns, possesses, or controls within 72 hours of discharge from the facility and how to relinquish a firearm, other deadly weapon, or ammunition according to state law and local procedures. Simultaneously, the facility shall inform the person that they may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition. The facility shall also provide the person with a copy of the most recent "Patient Notification of Firearm Prohibition and Right to Hearing Form" prescribed by the Department of Justice and a copy of the completed form to the Department of Justice in a manner prescribed by the Department of Justice. The Department of Justice shall update this form in accordance with the requirements of this section and distribute the updated form to facilities by January 1, 2020. The form shall include information regarding how the person was referred to the facility. The form shall include an authorization for the release of the person's mental health records, upon request, to the appropriate court, solely for use in the hearing conducted pursuant to paragraph (5). A request for the records may be made by mail to the custodian of records at the facility, and shall not require personal service. The facility shall not submit the form on behalf of the person subject to this subdivision.

(4) The Department of Justice shall provide the form upon request to a person described in paragraph (1). The Department of Justice shall also provide the form to the superior court in each county. The Department of Justice shall also provide a copy of the form upon the request of a law enforcement agency solely for investigative purposes. A person described in paragraph (1) may make a single request for a hearing at any time during the five-year period or period of the lifetime prohibition. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) A person who is subject to paragraph (1) who has requested a hearing from the superior court of the county of their residence for an order that they may own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of their detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 60 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 30 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county behavioral health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code shall be admissible at the hearing under this section.

(6) The people shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use a firearm, other deadly weapon, or ammunition in a safe and lawful manner.

(7) If the court finds at the hearing set forth in paragraph (5) that the people have not met their burden as set forth in paragraph (6), the court shall order that the person shall not be subject to the five-year prohibition or lifetime prohibition, as appropriate, in this section on the ownership, control, receipt, possession, or purchase of a firearm, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of a firearm. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(8) If the district attorney declines or fails to go forward in the hearing, the court shall order that the person shall not be subject to the five-year prohibition or lifetime prohibition required by this subdivision on the ownership, control, receipt, possession, or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall, within 15 days, delete any reference to the prohibition against firearms from the person's state mental

health firearms prohibition system information, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of a firearm.

(9) This subdivision does not prohibit the use of reports filed pursuant to this section to determine the eligibility of persons to own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm, other deadly weapon, or ammunition.

(10) If the court finds that the people have met their burden to show by a preponderance of the evidence that the person would not be likely to use a firearm, other deadly weapon, or ammunition in a safe and lawful manner and the person is subject to a lifetime firearm prohibition because the person had been admitted as specified in subparagraph (A) of paragraph (1) more than once within the previous one-year period, the court shall inform the person of their right to file a subsequent petition no sooner than five years from the date of the hearing.

(11) A person subject to a lifetime firearm prohibition is entitled to bring subsequent petitions pursuant to this subdivision. A person shall not be entitled to file a subsequent petition, and shall not be entitled to a subsequent hearing, until five years have passed since the determination on the person's last petition. A hearing on subsequent petitions shall be conducted as described in this subdivision, with the exception that the burden of proof shall be on the petitioner to establish by a preponderance of the evidence that the petitioner can use a firearm in a safe and lawful manner. Subsequent petitions shall be filed in the same court of jurisdiction as the initial petition regarding the lifetime firearm prohibition.

(12) (A) A person who is subject to paragraph (1), within 72 hours of discharge from a facility, shall relinquish a firearm, other deadly weapon, or ammunition that they own, possess, or control in a safe manner by any of the following methods:

(i) Surrender to the control of a law enforcement agency.

(ii) Sell or transfer to a licensed firearms dealer, as specified in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6 of the Penal Code.

(iii) Transfer or cause to be transferred to a licensed firearms dealer for storage during the duration of the prohibition pursuant to Section 29830 of the Penal Code.

(iv) Sell or transfer to a nonprohibited third party with whom the prohibited person does not live using a licensed firearms dealer pursuant to Section 28050 of the Penal Code.

(B) The law enforcement agency or licensed firearms dealer taking possession of a firearm, other deadly weapon, or ammunition from a person relinquishing a firearm, other deadly weapon, or ammunition pursuant to this paragraph shall issue a receipt to the person at the time of relinquishment.

(C) The "Patient Notification of Firearm Prohibition and Right to Hearing Form" described in paragraph (3) shall include information about how a person will relinquish their firearm, other deadly weapon, or ammunition pursuant to subparagraph (A).

(g) (1) (A) A person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, a firearm, other deadly weapon, or ammunition for a period of five years.

(B) A person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) (A) For each person certified for intensive treatment under paragraph (1), the facility shall, within 24 hours of the certification, submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. A report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(B) Facilities shall submit reports pursuant to this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) A person who is subject to paragraph (1) may petition the superior court of the county of their residence for an order that they may own, possess, control, receive, or purchase a firearm, other deadly weapon, or ammunition. At the time the petition is filed, the clerk of the court shall set a hearing date within 60 days of receipt of the petition and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be

represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of their detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 30 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county behavioral health director of the petition, and the county behavioral health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law, a declaration, police report, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use a firearm, other deadly weapon, or ammunition in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase a firearm, other deadly weapon, or ammunition, and that person shall comply with the procedure described in Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6 of the Penal Code for the return of a firearm, other deadly weapon, or ammunition. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition from the person's state mental health firearms prohibition system information.

(h) (1) For all persons identified in subdivisions (f) and (g), a facility shall report to the Department of Justice, as specified in those subdivisions, except facilities shall not report a person under subdivision (g) if the same person was previously reported under subdivision (f).

(2) Additionally, a facility shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g). However, a report shall not be filed for persons who are discharged within 31 days after the date of admission.

(i) (1) A person, who has been found by a court, on or after July 1, 2024, to be prohibited from owning or controlling a firearm, other deadly weapon, or ammunition because they are a danger to themselves or others and has been granted pretrial mental health diversion pursuant to subdivision (m) of Section 1001.36 or subdivision (p) of Section 1001.80 of the Penal Code, shall not own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase, a firearm, other deadly weapon, or ammunition until the person successfully completes diversion or their rights are restored pursuant to paragraph (4) of subdivision (g).

(2) The court shall notify the Department of Justice of the court order finding the person to be an individual described in paragraph (1) as soon as possible, but not later than one court day after issuing the order. The court shall also notify the Department of Justice that the person has successfully completed diversion as soon as possible, but not later than one court day after completion.

(j) Every person who owns or possesses or has custody or control of, or purchases or receives, or attempts to purchase or receive, a firearm, other deadly weapon, or ammunition in violation of this section shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code or in a county jail for not more than one year.

(k) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

(l) A notice or report required to be submitted to the Department of Justice pursuant to this section shall be submitted in an electronic format, in a manner prescribed by the Department of Justice.

(m) This section shall become operative on September 1, 2025.

(Repealed (in Sec. 2.4) and added by Stats. 2024, Ch. 924, Sec. 2.5. (SB 1025) Effective January 1, 2025. Operative September 1, 2025, by its own provisions.)

8104. The State Department of State Hospitals shall maintain in a convenient central location and shall make available to the Department of Justice those records that the State Department of State Hospitals has in its possession that are necessary to identify persons who come within Section 8100 or 8103. Upon request of the Department of Justice, the State Department of State Hospitals shall make these records available to the Department of Justice in electronic format within 24 hours of receiving the request. The Department of Justice shall make these requests only with respect to its duties with regard to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives as defined in Section 12000 of the Health and Safety Code, devices defined in Section 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal Code, or in subdivision (a) of Section 16840 of the Penal Code, machineguns as defined in Section 16880 of the Penal Code, short-barreled shotguns or short-barreled rifles as defined in Sections 17170 and 17180 of the Penal Code, assault weapons as defined in Section

30510 of the Penal Code, and destructive devices as defined in Section 16460 of the Penal Code, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person. These records shall not be furnished or made available to any person unless the department determines that disclosure of any information in the records is necessary to carry out its duties with respect to applications for permits for, or to carry, or the possession, purchase, or transfer of, explosives, destructive devices, devices as defined in Section 16250, 16530, or 16640 of the Penal Code, in subdivisions (a) to (d), inclusive, of Section 16520 of the Penal Code, or in subdivision (a) of Section 16840 of the Penal Code, short-barreled shotguns, short-barreled rifles, assault weapons, and machineguns, or to determine the eligibility of a person to acquire, carry, or possess a firearm, explosive, or destructive device by a person who is subject to a criminal investigation, a part of which involves the acquisition, carrying, or possession of a firearm by that person.

(Amended by Stats. 2013, Ch. 747, Sec. 4. (AB 1131) Effective January 1, 2014.)

8105. (a) The Department of Justice shall request each public and private mental hospital, sanitarium, and institution to submit to the department information the department deems necessary to identify those persons who are subject to the prohibition specified by subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(b) Upon request of the Department of Justice pursuant to subdivision (a), each public and private mental hospital, sanitarium, and institution shall submit to the department information the department deems necessary to identify those persons who are subject to the prohibition specified by subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(c) A licensed psychotherapist shall report to a local law enforcement agency, within 24 hours, in a manner prescribed by the Department of Justice, the identity of a person subject to the prohibition specified by subdivision (b) of Section 8100. Upon receipt of the report, the local law enforcement agency, on a form prescribed by the Department of Justice, shall notify the department electronically, within 24 hours, in a manner prescribed by the department, of the person who is subject to the prohibition specified by subdivision (b) of Section 8100.

(d) All information provided to the Department of Justice pursuant to this section shall be kept confidential, separate, and apart from all other records maintained by the department. The information provided to the Department of Justice pursuant to this section shall be used only for any of the following purposes:

(1) By the department to determine eligibility of a person to acquire, carry, or possess firearms, destructive devices, or explosives.

(2) For the purposes of the court proceedings described in subdivision (b) of Section 8100, to determine the eligibility of the person who is bringing the petition pursuant to paragraph (3) of subdivision (b) of Section 8100.

(3) To determine the eligibility of a person to acquire, carry, or possess firearms, destructive devices, or explosives who is the subject of a criminal investigation, or who is the subject of a petition for the issuance of a gun violence restraining order issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6 of the Penal Code, if a part of the investigation involves the acquisition, carrying, or possession of firearms, explosives, or destructive devices by that person.

(e) Reports shall not be required or requested under this section if the same person has been previously reported pursuant to Section 8103 or 8104.

(f) This section shall become operative on January 1, 2016.

(Repealed (in Sec. 6) and added by Stats. 2014, Ch. 872, Sec. 7. (AB 1014) Effective January 1, 2015. Section operative January 1, 2016, by its own provisions.)

8106. Individual data required to be reported to the Department of Justice pursuant to this chapter related to prohibition of ownership and possession of a firearm and ammunition shall be available to researchers affiliated with the California Firearm Violence Research Center at UC Davis following approval by the institution's governing institutional review board, when required. At the department's discretion, and subject to Section 14240 of the Penal Code, the data may be provided to any other nonprofit bona fide research institution accredited by the United States Department of Education or the Council for Higher Education Accreditation for the study of the prevention of violence, following approval by the institution's governing institutional review board or human subjects committee, when required, for academic and policy research purposes. Material identifying individuals shall only be provided for research or statistical activities and shall not be transferred, revealed, or used for purposes other than research or statistical activities, and reports or publications derived therefrom shall not identify specific individuals. Reasonable costs to the department associated with the department's processing of that data may be billed to the researcher. If a request for data or letter of support for research using the data is denied, the department shall provide a written statement of the specific reasons for the denial.

(Added by Stats. 2021, Ch. 253, Sec. 13. (AB 173) Effective September 23, 2021.)

8108. Mental hospitals, health facilities, or other institutions, or treating health professionals or psychotherapists who provide reports subject to this chapter shall be civilly immune for making any report required or authorized by this chapter. This section is declaratory of existing law.

(Added by Stats. 1991, Ch. 951, Sec. 11.)