



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-339 Gun violence restraining orders: law enforcement procedures. (2019-2020)

SHARE THIS:  

Date Published: 10/14/2019 09:00 PM

Assembly Bill No. 339

CHAPTER 727

An act to add Section 18108 to the Penal Code, relating to gun violence restraining orders.

[Approved by Governor October 11, 2019. Filed with Secretary of State October 11, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 339, Irwin. Gun violence restraining orders: law enforcement procedures.

Existing law authorizes a law enforcement officer to request, and a judicial officer to issue on an ex parte basis, a temporary emergency gun violence restraining order that prohibits a person from having custody or control of any firearms or ammunition if the person poses a significant danger of causing personal injury to themselves or another by having a firearm or ammunition. Existing law establishes a civil restraining order process to accomplish that purpose.

Existing law also authorizes an immediate family member to petition the court for an ex parte temporary gun violence restraining order.

Existing law authorizes a court, after notice and hearing, to issue a gun violence restraining order for a period of one year which may be renewed, as specified.

This bill would require each specified law enforcement agency to develop and adopt written policies and standards, as described, regarding the use of gun violence restraining orders.

By requiring local law enforcement agencies to develop new policies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 18108 is added to the Penal Code, to read:

18108. (a) Each municipal police department and county sheriff's department, the Department of the California Highway Patrol, and the University of California and California State University Police Departments shall, on or before January 1, 2021, develop, adopt, and implement written policies and standards relating to gun violence restraining orders.

(b) The policies and standards shall instruct officers to consider the use of a gun violence restraining order during a domestic disturbance response to any residence which is associated with a firearm registration or record, during a response in which a firearm is present, or during a response in which one of the involved parties owns or possesses a firearm. The policies and standards should encourage the use of gun violence restraining orders in appropriate situations to prevent future violence involving a firearm.

(c) The policies and standards should also instruct officers to consider the use of a gun violence restraining order during a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, if that person owns or possesses a firearm. The policies and standards shall encourage officers encountering situations in which there is reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm to consider obtaining a mental health evaluation of the person by a medically trained professional or to detain the person for mental health evaluation pursuant to agency policy relating to Section 5150 of the Welfare and Institutions Code. The policies and standards should reflect the policy of the agency to prevent access to firearms by persons who, due to mental health issues, pose a danger to themselves or to others by owning or possessing a firearm.

(d) The written policies and standards developed pursuant to this section shall be consistent with any gun violence restraining order training administered by the Commission on Peace Officer Standards and Training, and shall include all of the following:

- (1) Standards and procedures for requesting and serving a temporary emergency gun violence restraining order.
- (2) Standards and procedures for requesting and serving an ex parte gun violence restraining order.
- (3) Standards and procedures for requesting and serving a gun violence restraining order issued after notice and hearing.
- (4) Standards and procedures for the seizure of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
- (5) Standards and procedures for verifying the removal of firearms and ammunition from the subject of a gun violence restraining order.
- (6) Standards and procedures for obtaining and serving a search warrant for firearms and ammunition.
- (7) Responsibility of officers to attend gun violence restraining order hearings.
- (8) Standards and procedures for requesting renewals of expiring gun violence restraining orders.

(e) Municipal police departments, county sheriff's departments, the Department of the California Highway Patrol, and the University of California and California State University Police Departments are encouraged, but not required by this section, to train officers on standards and procedures implemented pursuant to this section, and may incorporate these standards and procedures into an academy course, preexisting annual training, or other continuing education program.

(f) In developing these policies and standards, law enforcement agencies are encouraged to consult with gun violence prevention experts and mental health professionals.

(g) Policies developed pursuant to this section shall be made available to the public upon request.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.