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SB-320 Domestic violence protective orders: possession of a firearm. (2021-2022)

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Senate Bill No. 320

CHAPTER 685

An act to amend Sections 3044, 6304, 6306, 6323, and 6389 of, and to add Section 6322.5 to, the Family Code, to amend Sections 11108.2, 25555, 26379, 26405, 26540, and 30342 of the Penal Code, and to amend Section 213.5 of the Welfare and Institutions Code, relating to domestic violence.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 320, Eggman. Domestic violence protective orders: possession of a firearm.

(1) Existing law prohibits a person subject to a protective order, as defined, from owning, possessing, purchasing, or receiving a firearm or ammunition while that protective order is in effect and makes a willful and knowing violation of a protective order a crime. Existing law requires the court, when issuing the order with both parties present, to inform the parties of this information and to order the restrained person to relinquish any firearm in the person's immediate possession or control or subject to their immediate possession or control. Existing law specifies the means of relinquishment if the law enforcement officer serving the protective order does not request the immediate surrender of the firearm, including, surrender to law enforcement, or by selling the firearm to a licensed gun dealer.

This bill would require a court to order the restrained person to relinquish ammunition and to notify the parties of how any firearms or ammunition still in the restrained party's possession are to be relinquished and how to submit a receipt to the court. The bill would require the court to review the file to determine whether the receipt has been filed and inquire as to whether the person has complied with the requirement. The bill would require violations of the firearms or ammunition prohibition to be reported to the prosecuting attorney in the jurisdiction where the order has been issued within 2 business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court. The bill would authorize the relinquishment to occur by transferring the firearm or ammunition or relinquishing them for storage if the firearm or ammunition is not immediately surrendered to law enforcement upon service of the protective order.

This bill would also require the court, at a noticed hearing relating to a domestic violence protective order in family court or juvenile court, to consider information presented that the restrained person has possession or control of a firearm or ammunition. The bill would authorize the court, upon making this finding, to set a review hearing, as specified, to determine whether the person has possession or control of a firearm or ammunition in violation of the above provisions.

Existing law requires a court, prior to a hearing on the issuance or denial of a protective order, to ensure that a search has been conducted to determine if the subject of the order has been convicted of a serious or violent felony, a misdemeanor conviction involving domestic violence, weapons, or other violence, has an outstanding warrant, is currently on parole or probation, has a registered firearm, or has a prior restraining order or a violation of a restraining order. Existing law requires the court to notify law

enforcement officials if some of those conditions exist, including the person being on parole or probation or having an outstanding warrant.

This bill, as part of the search, would require the court to make a written record as to whether the subject has relinquished the firearm. If evidence of compliance with the prohibition on firearms or ammunition is not provided, the bill would require the clerk of the court to notify law enforcement officials and would require those law enforcement officials to take all actions necessary to obtain any firearms or ammunition owned, possessed, or controlled and to address any violation of the order with respect to firearms or ammunition, as specified. By requiring additional duties of local law enforcement officials, this bill would impose a state-mandated local program.

Existing law requires a family court to determine the best interest of the child for purposes of deciding child custody in proceedings for dissolution of marriage, nullity of marriage, legal separation of the parties, petitions for exclusive custody of a child, and proceedings under the Domestic Violence Prevention Act. Existing law establishes a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of a child and establishes factors to be considered in rebutting that presumption, including that the perpetrator is restrained by a protective order and has, or has not, complied with that order.

This bill, for purposes of rebutting the presumption, would require the court to also consider whether the person is a restrained person in possession or control of a firearm or ammunition in violation of the law.

Existing law authorizes the court to issue an ex parte order determining the temporary custody and visitation of a minor child, on the conditions the court determines, to a party who has established a parent and child relationship with the child, based on the best interest of the child. Existing law authorizes the court to suspend or deny custody or visitation or to limit visitation or custody only to situations in which a 3rd person is present.

This bill would require the court, in making that determination, to consider whether the party is a restrained person in possession or control of a firearm or ammunition.

(2) Existing law requires a law enforcement agency to enter all firearms that have been reported stolen, lost, found, recovered, held for safekeeping, or under observation into the Automated Firearms System (AFS).

This bill would also require law enforcement to enter in all firearms that are relinquished as part of a domestic violence protective order.

(3) Existing law specifies how firearms and ammunition may be transported and prohibits open or concealed carry in specified circumstances. Existing law requires a license to sell, lease, or transfer firearms. Existing law, the Safety for All Act of 2016, enacted by the voters as Proposition 63 at the November 8, 2016, General Election, requires a valid ammunition vendor license to sell more than 500 rounds of ammunition in any 30-day period. Proposition 63 authorizes amendments of its provisions by a vote of 55% of both houses of the Legislature if the amendments are consistent with, and further the purposes of, the act.

This bill would exempt people who are complying with the firearms provisions of a protective order from those provisions, including amending Proposition 63 to exempt a person from the limitation on the sale of over 500 rounds of ammunition in a 30-day period in order to comply with the protective order.

(4) This bill would incorporate additional changes to Section 3044 of the Family Code proposed by AB 1579 and AB 1171, to be operative only if this bill and AB 1579, AB 1171, or both are enacted and this bill is enacted last. The bill would also incorporate additional changes to Section 11108.2 of the Penal Code proposed by SB 715, to be operative only if this bill and SB 715 are enacted and this bill is enacted last.

(5) 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: 55% Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. The Legislature finds and declares both of the following:

(a) The intent expressed in the Safety for All Act of 2016 is to safeguard the ability of law-abiding, responsible Californians to own and use firearms for lawful means while requiring background checks for ammunition purchases in the manner required for firearm purchases so that neither firearms nor ammunition gets into the hands of dangerous individuals.

(b) To the extent that this act amends the Safety for All Act of 2016, the amendments are consistent with and further that intent. The amendments ensure that ammunition, which, pursuant to Section 6389 of the Family Code, is required to be sold to a licensed ammunition vendor, can be sold in a manner that is consistent with the decision of the United States Supreme Court in *Henderson v. United States*, 575 U.S. 622 (2015).

SEC. 2. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in subparagraph (C) of paragraph (1) of subdivision (b) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(G) The court has determined, pursuant to Section 6322.5, that the perpetrator is a restrained person in possession or control of a firearm or ammunition in violation of Section 6389.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 2.3. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against a person in subparagraph (A) of paragraph (2) of subdivision (a) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(G) The court has determined, pursuant to Section 6322.5, that the perpetrator is a restrained person in possession or control of a firearm or ammunition in violation of Section 6389.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Sections 3011 and 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 2.5. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in subparagraph (C) of paragraph (1) of subdivision (b) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(G) The court has determined, pursuant to Section 6322.5, that the perpetrator is a restrained person in possession or control of a firearm or ammunition in violation of Section 6389.

(c) For purposes of this section, a person has “perpetrated domestic violence” when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child’s siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 2.7. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child’s siblings, or against a person in subparagraph (A) of paragraph (2) of subdivision (a) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(G) The court has determined, pursuant to Section 6322.5, that the perpetrator is a restrained person in possession or control of a firearm or ammunition in violation of Section 6389.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Sections 3011 and 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 3. Section 6304 of the Family Code is amended to read:

6304. When making a protective order, as defined in Section 6218, where both parties are present in court, the court shall inform both the petitioner and the respondent of the terms of the order, including notice that the respondent is prohibited from owning, possessing, purchasing, or receiving or attempting to own, possess, purchase, or receive a firearm or ammunition, and including notice of the penalty for violation. Information provided shall include how any firearms or ammunition still in the restrained party's possession are to be relinquished, according to local procedures, and the process for submitting a receipt to the court showing proof of relinquishment.

SEC. 4. Section 6306 of the Family Code is amended to read:

6306. (a) Prior to a hearing on the issuance or denial of an order under this part, the court shall ensure that a search is or has been conducted to determine if the subject of the proposed order has a prior criminal conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; has a misdemeanor conviction involving domestic violence, weapons, or other violence; has an outstanding warrant; is currently on parole or probation; has a registered firearm; or has a prior restraining order or a violation of a prior restraining order. The search shall be conducted of all records and databases readily available and reasonably accessible to the court, including, but not limited to, the following:

- (1) The California Sex and Arson Registry (CSAR).
- (2) The Supervised Release File.
- (3) State summary criminal history information maintained by the Department of Justice pursuant to Section 11105 of the Penal Code.
- (4) The Federal Bureau of Investigation's nationwide database.
- (5) Locally maintained criminal history records or databases.

However, a record or database need not be searched if the information available in that record or database can be obtained as a result of a search conducted in another record or database.

(b) (1) Prior to deciding whether to issue an order under this part or when determining appropriate temporary custody and visitation orders, the court shall consider the following information obtained pursuant to a search conducted under subdivision (a): a conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; a misdemeanor conviction involving domestic violence, weapons, or other violence; an outstanding warrant; parole or probation status; a prior restraining order; and a violation of a prior restraining order.

(2) Information obtained as a result of the search that does not involve a conviction described in this subdivision shall not be considered by the court in making a determination regarding the issuance of an order pursuant to this part. That information shall be destroyed and shall not become part of the public file in this or any other civil proceeding.

(c) (1) After issuing its ruling, the court shall advise the parties that they may request the information described in subdivision (b) upon which the court relied. The court shall admonish the party seeking the proposed order that it is unlawful, pursuant to Sections 11142 and 13303 of the Penal Code, to willfully release the information, except as authorized by law.

(2) Upon the request of either party to obtain the information described in subdivision (b) upon which the court relied, the court shall release the information to the parties or, upon either party's request, to the party's attorney in that proceeding.

(3) The party seeking the proposed order may release the information to the party's counsel, court personnel, and court-appointed mediators for the purpose of seeking judicial review of the court's order or for purposes of court proceedings under Section 213.5 of the Welfare and Institutions Code.

(d) Information obtained as a result of the search conducted pursuant to subdivision (a) and relied upon by the court shall be maintained in a confidential case file and shall not become part of the public file in the proceeding or any other civil proceeding. However, the contents of the confidential case file shall be disclosed to the court-appointed mediator assigned to the case or to a child custody evaluator appointed by the court pursuant to Section 3111 of this code or Section 730 of the Evidence Code. All court-appointed mediators and child custody evaluators appointed or contracted by the court pursuant to Section 3111 of this code or Section 730 of the Evidence Code who receive information from the search conducted pursuant to subdivision (a) shall be subject to, and shall comply with, the California Law Enforcement Telecommunications System policies, practices, and procedures adopted pursuant to Section 15160 of the Government Code.

(e) If the results of the search conducted pursuant to subdivision (a) indicate that an outstanding warrant exists against the subject of the order, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of a protective order and of any other information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to execute any outstanding warrants or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(f) If the results of the search conducted pursuant to subdivision (a) indicate that the subject of the order owns a registered firearm or if the court receives evidence of the subject's possession of a firearm or ammunition, the court shall make a written record as to whether the subject has relinquished the firearm or ammunition and provided proof of the required storage, sale, or

relinquishment of the firearm or ammunition. If evidence of compliance with firearms prohibitions is not provided pursuant to subdivision (c) of Section 6389, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of the issuance and contents of a protective order, information about the firearm or ammunition, and of any other information obtained through the search that the court determines is appropriate. The law enforcement officials so notified shall take all actions necessary to obtain those and any other firearms or ammunition owned, possessed, or controlled by the restrained person and to address any violation of the order with respect to firearms or ammunition as appropriate and as soon as practicable.

(g) If the results of the search conducted pursuant to subdivision (a) indicate that the subject of the order is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of the issuance and contents of a protective order issued by the court and of any other information obtained through the search that the court determines is appropriate. That officer shall take all actions necessary to revoke parole or probation, or any other actions, with respect to the restrained person, as appropriate and as soon as practicable.

(h) This section shall not delay the granting of an application for an order that may otherwise be granted without the information resulting from the database search. If the court finds that a protective order under this part should be granted on the basis of the affidavit presented with the petition, the court shall issue the protective order and shall then ensure that a search is conducted pursuant to subdivision (a) prior to the hearing.

SEC. 5. Section 6322.5 is added to the Family Code, to read:

6322.5. (a) When relevant information is presented to the court at a noticed hearing that a restrained person has a firearm or ammunition, the court shall consider that information and determine, by a preponderance of the evidence, whether the person subject to a protective order has a firearm or ammunition in, or subject to, their immediate possession or control in violation of Section 6389.

(b) (1) In making the determination required pursuant to subdivision (a), the court may consider whether the restrained person filed a firearm relinquishment, storage, or sales receipt or if an exemption from the firearm prohibition was granted pursuant to subdivision (h) of Section 6389.

(2) The court may make the determination at a noticed hearing when a domestic violence protective order is issued, at a subsequent review hearing, or at any subsequent family or juvenile law hearing while the order remains in effect.

(3) If the court makes a determination that the restrained person has a firearm or ammunition in violation of Section 6389, the court shall make a written record of the determination and provide a copy to any party who is present at the hearing and, upon request, to any party not present at the hearing.

(c) (1) When presented with information pursuant to subdivision (a), the court may set a review hearing to determine whether there has been a violation of Section 6389.

(2) The review hearing shall be held within 10 court days after the noticed hearing at which the information was presented. If the restrained person is not present when the court sets the review hearing, the protected person shall provide notice of the review hearing to the restrained person at least two court days before the review hearing, in accordance with Section 414.10 of the Code of Civil Procedure, by personal service or by mail to the restrained person's last known address.

(3) The court may, for good cause, extend the date of the review hearing for a reasonable period or remove it from the calendar.

(4) The court shall order the restrained person to appear at the hearing.

(5) The court may conduct the review hearing in the absence of the protected person.

(6) This section does not prohibit the court from permitting a party or witness to appear through technology that enables remote appearances, as determined by the court.

(d) The determination made pursuant to this section may be considered by the court in issuing an order to show cause for contempt pursuant to paragraph (5) of subdivision (a) of Section 1209 of the Code of Civil Procedure or an order for monetary sanctions pursuant to Section 177.5 of the Code of Civil Procedure.

SEC. 6. Section 6323 of the Family Code is amended to read:

6323. (a) Subject to Section 3064:

(1) The court may issue an ex parte order determining the temporary custody and visitation of a minor child, on the conditions the court determines, to a party who has established a parent and child relationship pursuant to paragraph (2). The parties shall inform the court if a custody or visitation order has already been issued in any other proceeding.

(2) (A) In making a determination of the best interest of the child, in order to limit the child's exposure to potential domestic violence, and to ensure the safety of all family members, if the party who has obtained the restraining order has established a parent and child relationship and the other party has not established that relationship, the court may award temporary sole legal and physical custody to the party to whom the restraining order was issued and may make an order of no visitation to the other party pending the establishment of a parent and child relationship between the child and the other party.

(B) A party may establish a parent and child relationship for purposes of subparagraph (A) only by offering proof of any of the following:

(i) The party gave birth to the child.

(ii) The child is conclusively presumed to be a child of the marriage between the parties, pursuant to Section 7540, or the party has been determined by a court to be a parent of the child, pursuant to Section 7541.

(iii) Legal adoption or pending legal adoption of the child by the party.

(iv) The party has signed a valid voluntary declaration of paternity, which has been in effect more than 60 days prior to the issuance of the restraining order, and that declaration has not been rescinded or set aside.

(v) A determination made by the juvenile court that there is a parent and child relationship between the party offering the proof and the child.

(vi) A determination of parentage made in a proceeding to determine custody or visitation in a case brought by the local child support agency pursuant to Chapter 2 (commencing with Section 17400) of Division 17.

(vii) The party has been determined to be the parent of the child through a proceeding under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).

(viii) Both parties stipulate, in writing or on the record, for purposes of this proceeding, that they are the parents of the child.

(b) (1) Except as provided in paragraph (2), the court shall not make a finding of paternity in this proceeding, and an order issued pursuant to this section shall be without prejudice in any other action brought to establish a parent and child relationship.

(2) The court may accept a stipulation of paternity by the parties and, if paternity is uncontested, enter a judgment establishing paternity, subject to the set-aside provisions in Section 7646.

(c) When making an order for custody or visitation pursuant to this section, the court's order shall specify the time, day, place, and manner of transfer of the child for custody or visitation to limit the child's exposure to potential domestic conflict or violence and to ensure the safety of all family members. If the court finds a party is staying in a place designated as a shelter for victims of domestic violence or other confidential location, the court's order for time, day, place, and manner of transfer of the child for custody or visitation shall be designed to prevent disclosure of the location of the shelter or other confidential location.

(d) When making an order for custody or visitation pursuant to this section, the court shall consider whether the best interest of the child, based upon the circumstances of the case, requires that a visitation or custody arrangement shall be limited to situations in which a third person, specified by the court, is present, or whether visitation or custody shall be suspended or denied.

(e) When determining whether visitation should be suspended, denied, or limited to situations in which a third person is present pursuant to subdivision (d), the court shall consider a determination made pursuant to Section 6322.5 that the party is a restrained person in possession or control of a firearm or ammunition in violation of Section 6389.

SEC. 7. Section 6389 of the Family Code is amended to read:

6389. (a) A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm or ammunition while that protective order is in effect. A person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to Section 29825 of the Penal Code.

(b) On all forms providing notice that a protective order has been requested or granted, the Judicial Council shall include a notice that, upon service of the order, the respondent shall be ordered to relinquish possession or control of any firearms or ammunition

and not to purchase or receive or attempt to purchase or receive any firearms or ammunition for a period not to exceed the duration of the restraining order.

(c) (1) Upon issuance of a protective order, as defined in Section 6218, the court shall order the respondent to relinquish any firearm or ammunition in the respondent's immediate possession or control or subject to the respondent's immediate possession or control.

(2) The relinquishment ordered pursuant to paragraph (1) shall occur by immediately surrendering the firearm or ammunition in a safe manner, upon request of a law enforcement officer, to the control of the officer, after being served with the protective order. A law enforcement officer serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm or ammunition be immediately surrendered. Alternatively, if a request is not made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm or ammunition in a safe manner to the control of local law enforcement officials, or by selling, transferring, or relinquishing for storage pursuant to Section 29830 of the Penal Code, the firearm or ammunition to a licensed gun 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. The law enforcement officer or licensed gun dealer taking possession of the firearm or ammunition pursuant to this subdivision shall issue a receipt to the person relinquishing the firearm or ammunition at the time of relinquishment. A person ordered to relinquish a firearm or ammunition pursuant to this subdivision shall, within 48 hours after being served with the order, do both of the following:

(A) File, with the court that issued the protective order, the receipt showing the firearm or ammunition was surrendered to a local law enforcement agency or sold to a licensed gun dealer. Failure to timely file a receipt shall constitute a violation of the protective order.

(B) File a copy of the receipt described in subparagraph (A) with the law enforcement agency that served the protective order. Failure to timely file a copy of the receipt shall constitute a violation of the protective order.

(3) The forms for protective orders adopted by the Judicial Council and approved by the Department of Justice shall require the petitioner to describe the number, types, and locations of any firearms or ammunition presently known by the petitioner to be possessed or controlled by the respondent.

(4) A court holding a hearing on this matter shall review the file to determine whether the receipt has been filed and inquire of the respondent whether they have complied with the requirement. Violations of the firearms prohibition of any restraining order under this section shall be reported to the prosecuting attorney in the jurisdiction where the order has been issued within two business days of the court hearing unless the restrained party provides a receipt showing compliance at a subsequent hearing or by direct filing with the clerk of the court.

(5) Every law enforcement agency in the state shall develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms or ammunition.

(d) If the respondent declines to relinquish possession of a firearm or ammunition based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm or ammunition required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of a firearm or ammunition pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm or ammunition. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm or ammunition, storing the firearm or ammunition, and surrendering possession of the firearm or ammunition to a licensed dealer as defined in Section 26700 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm or ammunition pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm or ammunition while the protective order is in effect and that the firearm or ammunition shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. This section does not limit a respondent's right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm or ammunition pursuant to subdivision (c) shall prohibit the person from possessing or controlling a firearm or ammunition for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of the surrendered firearm or ammunition to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm or ammunition has been stolen, (2) the respondent is prohibited from possessing a firearm or ammunition because the respondent is in a prohibited class for the possession of firearms or ammunition, as defined in Chapter 2 (commencing with Section 29800) and

Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of the Penal Code, Section 30305 of the Penal Code, and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is issued against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of a firearm or ammunition deposited with the local law enforcement agency and is prohibited from possessing a firearm or ammunition, the respondent shall be entitled to sell or transfer the firearm or ammunition to a licensed dealer as defined in Section 26700 of the Penal Code. If the firearm or ammunition has been stolen, the firearm or ammunition shall be restored to the lawful owner upon the owner identifying the firearm and ammunition and providing proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm or ammunition if the respondent can show that a particular firearm or ammunition is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm or ammunition is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm or ammunition shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from the place of employment. When a peace officer is required, as a condition of employment, to carry a firearm or ammunition and whose personal safety depends on the ability to carry a firearm or ammunition a court may allow the peace officer to continue to carry a firearm or ammunition, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms or ammunition that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms or ammunition owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms or ammunition, at the location where a respondent's firearms or ammunition are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The relinquishment of a firearm to a law enforcement agency pursuant to subdivision (g) or the return of a firearm to a person pursuant to subdivision (g) shall not be subject to the requirements of Section 27545 of the Penal Code.

(l) If the respondent notifies the court that the respondent owns a firearm or ammunition that is not in their immediate possession, the court may limit the order to exclude that firearm or ammunition if the judge is satisfied the respondent is unable to gain access to that firearm or ammunition while the protective order is in effect.

(m) A respondent to a protective order who violates an order issued pursuant to this section shall be punished under the provisions of Section 29825 of the Penal Code.

SEC. 8. Section 11108.2 of the Penal Code is amended to read:

11108.2. (a) A law enforcement agency shall enter or cause to be entered into the Department of Justice Automated Firearms System each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, relinquished pursuant to Section 6389 of the Family Code, or under observation, within seven calendar days after being notified of the precipitating event.

(b) Information about a firearm entered into the automated system for firearms shall remain in the system until the reported firearm has been found, recovered, is no longer under observation, or the record is determined to have been entered in error.

(c) Any costs incurred by the Department of Justice to implement subdivision (b) shall be reimbursed from funds other than fees charged and collected pursuant to Sections 28225, 28230, and 28233.

(d) As used in this section, "law enforcement agency" means a police or sheriff's department, or any department or agency of the state or any political subdivision thereof that employs any peace officer as defined in Section 830, including, but not limited to, the Department of the California Highway Patrol, the Department of Fish and Wildlife, the University of California or California State University Police Departments, and the police department of any school district, transit district, airport, and harbor, port, or housing authority.

SEC. 8.5. Section 11108.2 of the Penal Code is amended to read:

11108.2. (a) A law enforcement agency shall enter or cause to be entered into the Department of Justice Automated Firearms System each firearm that has been reported stolen, lost, found, recovered, held for safekeeping, surrendered pursuant to Section 28050, relinquished pursuant to Section 6389 of the Family Code, or under observation, within seven calendar days after being notified of the precipitating event.

(b) Information about a firearm entered into the automated system for firearms shall remain in the system until the reported firearm has been found, recovered, is no longer under observation, or the record is determined to have been entered in error.

(c) Any costs incurred by the Department of Justice to implement subdivision (b) shall be reimbursed from funds other than fees charged and collected pursuant to Sections 28225, 28230, and 28233.

(d) As used in this section, "law enforcement agency" means a police or sheriff's department, or any department or agency of the state or any political subdivision thereof that employs any peace officer as defined in Section 830, including, but not limited to, the Department of the California Highway Patrol, the Department of Fish and Wildlife, the University of California or California State University Police Departments, and the police department of any school district, transit district, airport, and harbor, port, or housing authority.

SEC. 9. Section 25555 of the Penal Code is amended to read:

25555. (a) Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to comply with Section 26556, 27870, 27875, 27915, 27920, 27925, 29810, or 29830, as it pertains to that firearm.

(b) Section 25400 does not apply to or affect the transportation of a firearm by a person in order to comply with paragraph (2) of subdivision (e) of Section 32000 as it pertains to that firearm.

(c) Section 25400 does not apply to, or affect the transportation of, a firearm by a person in order to comply with Section 6389 of the Family Code.

SEC. 10. Section 26379 of the Penal Code is amended to read:

26379. Paragraph (1) of subdivision (a) of Section 26350 does not apply to, or affect, the open carrying of an unloaded handgun incident to any of the following:

(a) Complying with Section 27560 or 27565, as it pertains to that handgun.

(b) Section 28000, as it pertains to that handgun.

(c) Section 27850 or 31725, as it pertains to that handgun.

(d) Complying with Section 27870 or 27875, as it pertains to that handgun.

(e) Complying with Section 26556, 27915, 27920, 27925, 29810, or 29830, as it pertains to that handgun.

(f) Complying with paragraph (2) of subdivision (e) of Section 32000, as it pertains to that handgun.

(g) Complying with Section 6389 of the Family Code, as it pertains to that handgun.

SEC. 11. Section 26405 of the Penal Code is amended to read:

26405. Section 26400 does not apply to, or affect, the carrying of an unloaded firearm that is not a handgun in any of the following circumstances:

(a) By a person when carried within a place of business, a place of residence, or on private real property, if that person, by virtue of subdivision (a) of Section 25605, may carry a firearm within that place of business, place of residence, or on that private real property owned or lawfully occupied by that person.

(b) By a person when carried within a place of business, a place of residence, or on private real property, if done with the permission of a person who, by virtue of subdivision (a) of Section 25605, may carry a firearm within that place of business, place of residence, or on that private real property owned or lawfully occupied by that person.

(c) When the firearm is either in a locked container or encased and it is being transported directly between places where a person is not prohibited from possessing that firearm and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(d) If the person possessing the firearm reasonably believes that they are in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to the person's life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating Section 26400, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that they were in grave danger.

- (e) By a peace officer or an honorably retired peace officer if that officer may carry a concealed firearm pursuant to Article 2 (commencing with Section 25450) of Chapter 2, or a loaded firearm pursuant to Article 3 (commencing with Section 25900) of Chapter 3.
- (f) By a person to the extent that person may openly carry a loaded firearm that is not a handgun pursuant to Article 4 (commencing with Section 26000) of Chapter 3.
- (g) As merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while engaged in the lawful course of the business.
- (h) By a duly authorized military or civil organization, or the members thereof, while parading or while rehearsing or practicing parading, when at the meeting place of the organization.
- (i) By a member of a club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using firearms that are not handguns upon the target ranges or incident to the use of a firearm that is not a handgun at that target range.
- (j) By a licensed hunter while engaged in hunting or while transporting that firearm when going to or returning from that hunting expedition.
- (k) Incident to transportation of a handgun by a person operating a licensed common carrier, or by an authorized agent or employee thereof, when transported in conformance with applicable federal law.
- (l) By a member of an organization chartered by the Congress of the United States or a nonprofit mutual or public benefit corporation organized and recognized as a nonprofit tax-exempt organization by the Internal Revenue Service while on official parade duty or ceremonial occasions of that organization or while rehearsing or practicing for official parade duty or ceremonial occasions.
- (m) Within a gun show conducted pursuant to Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) of Chapter 3 of Division 6.
- (n) Within a school zone, as defined in Section 626.9, if that carrying is not prohibited by Section 626.9.
- (o) When in accordance with the provisions of Section 171b.
- (p) By a person while engaged in the act of making or attempting to make a lawful arrest.
- (q) By a person engaged in firearms-related activities, while on the premises of a fixed place of business that is licensed to conduct and conducts, as a regular course of its business, activities related to the sale, making, repair, transfer, pawn, or the use of firearms, or related to firearms training.
- (r) By an authorized participant in, or an authorized employee or agent of a supplier of firearms for, a motion picture, television, or video production or entertainment event, when the participant lawfully uses that firearm as part of that production or event, as part of rehearsing or practicing for participation in that production or event, or while the participant or authorized employee or agent is at that production or event, or rehearsal or practice for that production or event.
- (s) Incident to obtaining an identification number or mark assigned for that firearm from the Department of Justice pursuant to Section 23910.
- (t) At an established public target range while the person is using that firearm upon that target range.
- (u) By a person when that person is summoned by a peace officer to assist in making arrests or preserving the peace, while the person is actually engaged in assisting that officer.
- (v) Incident to any of the following:
- (1) Complying with Section 27560 or 27565, as it pertains to that firearm.
 - (2) Section 28000, as it pertains to that firearm.
 - (3) Section 27850 or 31725, as it pertains to that firearm.
 - (4) Complying with Section 27870 or 27875, as it pertains to that firearm.
 - (5) Complying with Section 26556, 27915, 27920, 27925, 27966, 29810, or 29830, as it pertains to that firearm.

(6) Complying with Section 6389 of the Family Code, as it pertains to that firearm.

(w) Incident to, and in the course and scope of, training of, or by an individual to become a sworn peace officer as part of a course of study approved by the Commission on Peace Officer Standards and Training.

(x) Incident to, and in the course and scope of, training of, or by an individual to become licensed pursuant to Chapter 4 (commencing with Section 26150) as part of a course of study necessary or authorized by the person authorized to issue the license pursuant to that chapter.

(y) Incident to and at the request of a sheriff, chief, or other head of a municipal police department.

(z) If all of the following conditions are satisfied:

(1) The open carrying occurs at an auction, raffle, or similar event of a nonprofit public benefit or mutual benefit corporation at which firearms are auctioned, raffled, or otherwise sold to fund the activities of that corporation or the local chapters of that corporation.

(2) The unloaded firearm that is not a handgun is to be auctioned, raffled, or otherwise sold for that nonprofit public benefit or mutual benefit corporation.

(3) The unloaded firearm that is not a handgun is to be delivered by a person licensed pursuant to, and operating in accordance with, Sections 26700 to 26915, inclusive.

(aa) Pursuant to paragraph (3) of subdivision (b) of Section 171c.

(ab) Pursuant to Section 171d.

(ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision (c) of Section 171.7.

(ad) On publicly owned land, if the possession and use of an unloaded firearm that is not a handgun is specifically permitted by the managing agency of the land and the person carrying that firearm is in lawful possession of that firearm.

(ae) By any of the following:

(1) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 1 (commencing with Section 18710) of Division 5 of Title 2 by a person who holds a permit issued pursuant to Article 3 (commencing with Section 18900) of that chapter, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(2) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 2 (commencing with Section 30500) of Division 10 by a person who holds a permit issued pursuant to Section 31005, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(3) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Chapter 6 (commencing with Section 32610) of Division 10 by a person who holds a permit issued pursuant to Section 32650, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(4) The carrying of an unloaded firearm that is not a handgun that is regulated pursuant to Article 2 (commencing with Section 33300) of Chapter 8 of Division 10 by a person who holds a permit issued pursuant to Section 33300, if the carrying of that firearm is conducted in accordance with the terms and conditions of the permit.

(af) By a licensed hunter while actually engaged in training a dog for the purpose of using the dog in hunting that is not prohibited by law, or while transporting the firearm while going to or returning from that training.

(ag) Pursuant to the provisions of subdivision (d) of Section 171.5.

(ah) By a person who is engaged in the business of manufacturing ammunition and who is licensed to engage in that business, or the authorized representative or authorized agent of that person, while the firearm is being used in the lawful course and scope of the licensee's activities as a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and regulations issued pursuant thereto.

(ai) On the navigable waters of this state that are held in public trust, if the possession and use of an unloaded firearm that is not a handgun is not prohibited by the managing agency thereof and the person carrying the firearm is in lawful possession of the firearm.

SEC. 12. Section 26540 of the Penal Code is amended to read:

26540. (a) Section 26500 does not apply to sales, deliveries, transfers, or returns of firearms made pursuant to any of the following:

- (1) Sections 18000 and 18005.
- (2) Division 4 (commencing with Section 18250) of Title 2.
- (3) Section 29810.
- (4) Chapter 2 (commencing with Section 33850) of Division 11.
- (5) Sections 34005 and 34010.

(b) Section 26500 does not apply to the sale, delivery, or transfer of a firearm to a dealer to comply with Section 6389 of the Family Code.

SEC. 13. Section 30342 of the Penal Code is amended to read:

30342. (a) Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.

(b) Subdivision (a) does not apply to, or affect the sale of, ammunition to a person who holds a valid ammunition vendor license by a person in order to comply with Section 6389 of the Family Code.

(c) A violation of this section is a misdemeanor.

SEC. 14. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or in the manner provided by Section 6300 of the Family Code, if related to domestic violence, the juvenile court has exclusive jurisdiction to issue ex parte orders (1) enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; and (2) excluding a person from the dwelling of the person who has care, custody, and control of the child. A court may also issue an ex parte order enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former social worker or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure. On a showing of good cause, in an ex parte order issued pursuant to this subdivision in connection with an animal owned, possessed, leased, kept, or held by a person protected by the restraining order, or residing in the residence or household of a person protected by the restraining order, the court may do either or both of the following:

- (1) Grant the applicant exclusive care, possession, or control of the animal.
- (2) Order the restrained person to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code, the juvenile court may issue ex parte orders (1) enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; (2) excluding a person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening,

stalking, or disturbing the peace of a person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child. A court may also issue an ex parte order enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining a person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former probation officer or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure. On a showing of good cause, in an ex parte order issued pursuant to this subdivision in connection with an animal owned, possessed, leased, kept, or held by a person protected by the restraining order, or residing in the residence or household of a person protected by the restraining order, the court may do either or both of the following:

(1) Grant the applicant exclusive care, possession, or control of the animal.

(2) Order the respondent to stay away from the animal and refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

(c) (1) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 21 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for the service of the order to show cause on the person to be restrained.

(2) The respondent shall be entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition.

(3) Either party may request a continuance of the hearing, which the court shall grant on a showing of good cause. The request may be made in writing before or at the hearing or orally at the hearing. The court may also grant a continuance on its own motion.

(4) If the court grants a continuance, a temporary restraining order that has been issued shall remain in effect until the end of the continued hearing, unless otherwise ordered by the court. In granting a continuance, the court may modify or terminate a temporary restraining order.

(5) A hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) (1) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). A restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, no more than three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(2) If an action is filed for the purpose of terminating or modifying a protective order prior to the expiration date specified in the order by a party other than the protected party, the party who is protected by the order shall be given notice, pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure, of the proceeding by personal service or, if the protected party has satisfied the requirements of Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, by service on the Secretary of State. If the party who is protected by the order cannot be notified prior to the hearing for modification or termination of the protective order, the juvenile court shall deny the motion to modify or terminate the order without prejudice or continue the hearing until the party who is protected can be properly noticed and may, upon a showing of good cause, specify another method for service of process that is reasonably designed to afford actual notice to the protected party. The protected party may waive the right to notice if the party is physically present and does not challenge the sufficiency of the notice.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (b), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or a minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to a person under the care, custody, and control of the other party, or to a minor child of the parties or of the other party.

(f) An order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) (1) In a case where a court issues a protective order pursuant to subdivision (a), (b), (c), or (d), Section 6389 of the Family Code shall apply. In accordance with that section, the court shall make a determination as to whether the restrained person is in possession or control of a firearm or ammunition, as provided in Section 6322.5 of the Family Code.

(2) Subdivision (m) of Section 6389 of the Family Code does not apply if the restrained person is a child under the jurisdiction of the juvenile court pursuant to Section 601 or 602.

(h) All data with respect to a juvenile court protective order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), shall be transmitted by the court or its designee, within one business day, to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(i) A willful and knowing violation of an order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(j) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(k) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) of Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): a conviction for a violent felony specified in Section 667.5 of the Penal Code or a serious felony specified in Section 1192.7 of the Penal Code; a misdemeanor conviction involving domestic violence, weapons, or other violence; an outstanding warrant; parole or probation status; a prior restraining order; and a violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of information obtained through the search that the court determines is appropriate. The law enforcement officials notified shall take all actions necessary to execute outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of information obtained through the search that the court determines is appropriate. The parole or probation officer notified shall take all actions necessary to revoke parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

(l) Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

SEC. 15. (a) (1) Section 2.3 of this bill incorporates amendments to Section 3044 of the Family Code proposed by both this bill and Assembly Bill 1579. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 3044 of the Family Code, Assembly Bill 1171 is not enacted or does not amend that section, and (4) this bill is enacted after Assembly Bill 1579, in which case Sections 2, 2.5, and 2.7 of this bill shall not become operative.

(2) Section 2.5 of this bill incorporates amendments to Section 3044 of the Family Code proposed by both this bill and Assembly Bill 1171. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 3044 of the Family Code, (3) Assembly Bill 1579 is not enacted or does not amend that section, and (4) this bill is enacted after Assembly Bill 1171, in which case Sections 2, 2.3, and 2.7 of this bill shall not become operative.

(3) Section 2.7 of this bill incorporates amendments to Section 3044 of the Family Code proposed by this bill, by Assembly Bill 1579, and by Assembly Bill 1171. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 3044 of the Family Code, and (3) this bill is enacted after Assembly Bill 1579 and Assembly Bill 1171, in which case Sections 2, 2.3, and 2.5 of this bill shall not become operative.

(b) Section 8.5 of this bill incorporates amendments to Section 11108.2 of the Penal Code proposed by both this bill and Senate Bill 715. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 11108.2 of the Penal Code, and (3) this bill is enacted after Senate Bill 715, in which case Section 8 of this bill shall not become operative.

SEC. 16. 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.