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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** SB 536                      **Hearing Date:** March 28, 2017  
**Author:** Pan  
**Version:** March 20, 2017  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** JRD

**Subject:** *Firearm Violence Research Center: Gun Violence Restraining Orders*

### HISTORY

**Source:** Law Center to Prevent Gun Violence  
Americans for Responsible Solutions Foundation  
California Brady Campaign to Prevent Gun Violence

**Prior Legislation:** AB 1602 (Committee on Budget) – Chap. 24, Stats. of 2016  
SB 1006 (Wolk) – Held in Assembly Higher Education, 2016  
AB 1014 (Skinner) – Chap. 872, Stats. of 2014

**Support:** Unknown

**Opposition:** Firearms Policy Coalition; Gun Owners of California

### PURPOSE

*The purpose of this legislation is to give researchers at the Firearm Violence Research Center, and, at DOJ's discretion, any other nonprofit educational institution or public agency immediately concerned with the study and prevention of violence, access to information relating to gun violence restraining orders, as specified.*

*Existing law* provides every public agency or bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders may be provided with such criminal offender record information as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that such agency or body pays the cost of the processing of such data as determined by the Attorney General. (Penal Code § 13202.)

*Existing law* defines a “gun violence restraining order” (GVRO) as “an order, in writing, signed by the court, prohibiting and enjoining a named person from having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition.” (Penal Code § 18100.)

*Existing law* requires the court to notify the Department of Justice (DOJ) when a GVRO has been issued or renewed under this division no later than one court day after issuing or renewing the order. (Penal Code § 18115(a).)

*Existing law* requires the court to notify DOJ when a GVRO has been dissolved or terminated under this division no later than five court days after dissolving or terminating the order. Upon receipt of either a notice of dissolution or a notice of termination of a GVRO, the DOJ shall, within 15 days, document the updated status of any order issued under this division. (Penal Code § 18115(b).)

*Existing law* states that when notifying DOJ the court must indicate in the notice whether the person subject to the GVRO was present in court to be informed of the contents of the order or if the person failed to appear. The person's presence in court constitutes proof of service of notice of the terms of the order. (Penal Code § 18115(d).)

*Existing law* provides:

- Within one business day of service, a law enforcement officer who served a GVRO must the proof of service directly into the California Restraining and Protective Order System, including his or her name and law enforcement agency, and shall transmit the original proof of service form to the issuing court.
- Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court must submit the proof of service of a GVRO directly into the California Restraining and Protective Order System, including the name of the person who served the order. If the court is unable to provide this notification to DOJ by electronic transmission, the court shall, within one business day of receipt, transmit a copy of the proof of service to a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the California Restraining and Protective Order System within one business day of receipt from the court.

(Penal Code § 18115(e).)

*Existing law* codifies the following legislative findings and declarations:

- Firearm violence is a significant public health and public safety problem in California and nationwide. Nationally, rates of fatal firearm violence have remained essentially unchanged for more than a decade, as declines in homicide have been offset by increases in suicide.
- California has been the site of some of the nation's most infamous mass shootings, such as those at a McDonald's in San Ysidro, at Cleveland Elementary School in Stockton, near the University of California, Santa Barbara in Isla Vista, and most recently at the Inland Regional Center in San Bernardino. Yet public mass shootings account for less than 1 percent of firearm violence. In 2014, there were 2,939 firearm-related deaths in California, including 1,582 suicides, 1,230 homicides, 89 deaths by legal intervention, and 38 unintentional or undetermined deaths. In communities where firearm violence is a frequent occurrence, the very structure of daily life is affected.

- Nationwide, the annual societal cost of firearm violence was estimated at \$229,000,000,000 in 2012. A significant share of this burden falls on California. In 2013, the Office of Statewide Health Planning and Development noted that government-sponsored insurance programs covered nearly two-thirds of the costs of hospitalizations for firearm assaults in California, and about one-half of the costs of hospitalizations for unintentional injuries or those resulting from deliberate self-harm.
- California has been a leader in responding to this continuing crisis. However, although rates of fatal firearm violence in California are well below average for the 50 states, they are not low enough.
- Too little is known about firearm violence and its prevention. This is in substantial part because too little research has been done. The need for more research and more sophisticated research has repeatedly been emphasized. Because there has been so little support for research, only a small number of trained investigators are available.
- When confronted by other major health and social problems, California and the nation have mounted effective responses, coupling an expanded research effort with policy reform in the public's interest. Motor vehicle accidents, cancer, heart disease, and tobacco use are all examples of the benefits of this approach.
- Federal funding for firearm violence research through the federal Centers for Disease Control and Prevention has been virtually eliminated by Congress since 1996, leaving a major gap that must be filled by other sources.

(Penal Code § 14230.)

*Existing law* states that it is the intent of the Legislature to establish a center for research into firearm-related violence. It is the intent of the Legislature that the center be administered by the University of California pursuant to the following principles:

- Interdisciplinary work of the center shall address the following:
  - The nature of firearm violence, including individual and societal determinants of risk for involvement in firearm violence, whether as a victim or a perpetrator.
  - The individual, community, and societal consequences of firearm violence.
  - Prevention and treatment of firearm violence at the individual, community, and societal levels.
- The center shall conduct basic, translational, and transformative research with a mission to provide the scientific evidence on which sound firearm violence prevention policies and programs can be based. Its research shall include, but not be limited to, the effectiveness of existing laws and policies intended to reduce firearm violence, including the criminal misuse of firearms, and efforts to promote the responsible ownership and use of firearms.
- The center shall work on a continuing basis with policymakers in the Legislature and state agencies to identify, implement, and evaluate innovative firearm violence prevention policies and programs.
- To help ensure a long-term and successful effort to understand and prevent firearm violence, the center shall recruit and provide specialized training opportunities for new researchers, including experienced investigators in related fields who are beginning work on firearm violence, young investigators who have completed their education, postdoctoral scholars, doctoral students, and undergraduates.

- As a supplement to its own research, the center may administer a small grant program for research on firearm violence. All research funds shall be awarded on the basis of scientific merit as determined by an open, competitive peer review process that assures objectivity, consistency, and high quality. All qualified investigators, regardless of institutional affiliation, shall have equal access and opportunity to compete for the funds.
- The peer review process for the selection of grants awarded under this program shall be modeled on the process used by the National Institutes of Health in its grantmaking process.

(Penal Code § 14231(a).)

*Existing law* provide that it is further the intent of the Legislature that on or before December 31, 2017, and every five years thereafter, the University of California transmit programmatic, as well as financial, reports to the state, including a report on the grants made, pending grants, program accomplishments, and the future direction of the program. (Penal Code § 14231(b).)

*Existing law* requires that subject to the conditions and requirements established elsewhere in statute, state agencies, including, but not limited to, DOJ, the State Department of Public Health, the State Department of Health Care Services, the Office of Statewide Health Planning and Development, and the Department of Motor Vehicles, provide to the center, upon proper request, the data necessary for the center to conduct its research. (Penal Code § 14231(c).)

*Existing law* states that the center and all recipients of grants shall provide copies of their research publications to the Legislature and to agencies supplying data used in the conduct of that research as soon as is practicable following publication. (Penal Code § 14231(d).)

*Existing law* states that the Legislature requests that the Regents of the University of California establish a Firearm Violence Research Center and administer the center and grant program pursuant to, and consistent with, the principles and goals stated. (Penal Code § 14231(e).)

*This bill* requires DOJ to make information relating to GVROs that is maintained in the California Restraining and Protective Order System, or any similar database maintained by DOJ, available to researchers affiliated with the University of California Firearm Violence Research Center, or, at DOJ's discretion, to any other nonprofit educational institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom cannot identify specific individuals.

## COMMENTS

### 1. Need for This Bill

According to the author:

Last year, the Legislature appropriated funds to establish the University of California's Firearm Violence Research Center to conduct research related to firearm violence and its prevention. Currently, the UC Firearm Violence Research Center does not have access to information regarding gun violence restraining

orders. Existing law does allow academic researchers to access some criminal history records. However, since the GVROs are civil court orders and not criminal offender records, existing law does not allow researchers to access the GVRO information.

## **2. California's Gun Violence Restraining Order**

California's GVRO laws, modeled after domestic violence restraining order laws, went into effect on January 1, 2016. A GVRO will prohibit the restrained person from purchasing or possessing firearms or ammunition and authorizes law enforcement to remove any firearms or ammunition already in the individual's possession.

The statutory scheme establishes three types of GVRO's: a temporary emergency GVRO, an ex parte GVRO, and a GVRO issued after notice and hearing. A law enforcement officer may seek a temporary emergency GVRO by submitting a written petition to or calling a judicial officer to request an order at any time of day or night. In contrast, an immediate family member or a law enforcement officer can petition for either an ex parte GVRO or a GVRO after notice and a hearing.

An ex parte GVRO is based on an affidavit filed by the petitioner which sets forth the facts establishing the grounds for the order. The court will determine whether good cause exists to issue the order. If, the court issues the order, it can remain in effect for 21 days. Within that time frame, the court must provide an opportunity for a hearing. At the hearing, the court can determine whether the firearms should be returned to the restrained person, or whether it should issue a more permanent order.

Finally, if the court issues a GVRO after notice and hearing has been provided to the person to be restrained, this more permanent order can last for up to one year.

## **3. UC Firearm Violence Research Center**

In 2016, the legislature appropriated five million dollars over the next five years to the University of California for purposes of firearms research. On August 29, 2016, the President of the University of California announced her intent to establish the University of California Firearm Violence Research Center at UC Davis' Sacramento campus under the direction of Garen Wintemute:

The new center, funded with an appropriation of \$5 million over the next five years from the state of California, will build on unique resources already in place at UC Davis for conducting transformative violence-prevention research and draw on the power of other UC campuses and beyond to provide the scientific evidence that informs the development of effective prevention policies and programs.

"The state's decision to provide public funding for a center to study firearm violence — the first of its kind in the nation — demonstrates great leadership by the state and presents a unique opportunity for the University of California to be at the forefront of researching a growing public health issue," Napolitano said.

Napolitano said she was designating UC Davis as the lead campus for the firearm violence research center with the expectation that experts from other UC campuses will contribute to the effort. “It is important that we draw upon the power of all the campuses to help tackle this issue,” she said.

UC Davis will take the lead in developing a comprehensive, multicampus plan for the new center, which will be submitted to the Office of the President for approval by Oct. 15. The plan will propose and prioritize initial research projects, develop a timeline for accepting applications for small grants, outline efforts to increase philanthropic support to sustain the research, and define an annual operating budget and structure for reporting activities and accomplishments.

An advisory board that includes scholars, law enforcement officials, elected officials and other experts in the area of firearm violence also will be established to provide research input.

“UC Davis has a long track record on firearm violence research and is well-positioned to direct a collaborative center,” said UC Davis Acting Chancellor Ralph J. Hexter. “Through the UC Davis Violence Prevention Research Program, established in 1989, Dr. Wintemute and his team have consistently generated hard, scientific data that have made clear connections between factors that increase gun violence as well as effective risk-reduction measures.

“Over the years, they also have developed strong and productive partnerships with federal, state and local policymakers, as well as law enforcement agencies, policy research institutes, co-investigators at many other leading universities and violence prevention coalitions. It is on this firm foundation that the new UC firearm research center is being built,” he said.

State funding dedicated for firearm violence research is unprecedented and important, experts say.

*(Nation’s First State-Funded Firearm Violence Research Center to Be Established at UC Davis, Carole Gan, August 29, 2016, <https://www.ucdavis.edu/news/nation%E2%80%99s-first-state-funded-firearm-violence-research-center-be-established-uc-davis/>.)*

#### **4. Effect of This Legislation**

Existing law requires that DOJ provide to the Firearm Violence Research Center, upon proper request, the data necessary for the center to conduct its research. (Penal Code § 14231(c).) Given this, the Firearm Violence Research Center should, arguably already have access to GVRO information. This legislation makes it clear that researchers at the Firearm Violence Research Center and, at DOJ’s discretion, any other nonprofit educational institution or public agency immediately concerned with the study and prevention of violence, can access GVRO information.

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