
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 2917 **Hearing Date:** June 25, 2024
Author: Zbur
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Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Firearms: restraining orders*

HISTORY

Source: Everytown for Gun Safety
San Francisco City Attorney's Office

Prior Legislation: AB 301 (Bauer-Kahan), Ch. 234, Stats. 2023
AB 2870 (Santiago), Ch. 974, Stats. 2022
AB 538 (Rubio), Ch. 686, Stats. 2021
AB 2617 (Gabriel), Ch. 286, Stats. 2020
AB 12 (Irwin), Ch. 724, Stats. 2019
AB 61 (Ting), Ch. 725, Stats. 2019
AB 339 (Irwin), Ch. 727, Stats. 2019
SB 1200 (Skinner), Ch. 898, Stats. 2018
AB 2888 (Ting), vetoed, 2018
SB 505 (Jackson), Ch. 918, Stats. 2014
AB 1014 (Skinner), Ch. 872, Stats. 2014

Support: American Jewish Committee - Los Angeles; Anti-defamation League; Brady California; California District Attorneys Association; Civil Prosecutors Coalition; Democratic Club of Claremont; Democrats for Israel – CA; Democrats for Israel Los Angeles; Equality California; ETTA; Everytown for Gun Safety Action Fund; Giffords Law Center to Prevent Gun Violence; Hadassah; HIAS; Holocaust Museum LA; Indivisible Sacramento; JCRC Bay Area; Jewish Center for Justice; Jewish Community Federation and Endowment Fund; Jewish Democratic Club of Marin; Jewish Democratic Club of Solano County; Jewish Democratic Coalition of The Bay Area; Jewish Family and Children's Service of Long Beach and Orange County; Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties; Jewish Family Service of Los Angeles; Jewish Family Service of San Diego; Jewish Family Services of Silicon Valley; Jewish Federation of Greater Los Angeles; Jewish Federation of The Greater San Gabriel and Pomona Valleys; Jewish Free Loan Association; Jewish Long Beach; Jewish Public Affairs Committee; Jewish Silicon Valley; Los Angeles Unified School District; Progressive Zionists of California; San Diego City Attorney's Office; Women Democrats of Sacramento County; 1 individual

Opposition: California Rifle and Pistol Association; Gun Owners of California, INC.

Assembly Floor Vote: 57 - 3

PURPOSE

The purpose of this bill is to authorize a court, when determining whether to issue a gun violence restraining order (GVRO), to consider evidence of stalking, animal cruelty, threats toward a person or group based on a protected characteristic, and threats of violence or destruction of property for the purpose of interfering with the free exercise of constitutional right, and to authorize city attorneys and county counsel pursuing GVROs to receive state and local criminal summary information.

Existing law defines a “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. (Pen. Code, § 18100.)

Existing law requires a petition for a GVRO to describe the number, types, and locations of any firearms and ammunition presently believed by the petitioner to be possessed or controlled by the subject of the petition. (Pen. Code, § 18107.)

Existing law requires the court to notify the Department of Justice (DOJ) when a GVRO is issued, renewed, dissolved, or terminated. (Pen. Code, § 18115.)

Existing law prohibits a person that is subject to a GVRO from having in his or her custody any firearms or ammunition while the order is in effect. Specifies that this means the person cannot own, purchase, possess, or receive any firearms or ammunition. (Pen. Code, § 18120, subd. (a).)

Existing law requires the court to order the restrained person to surrender all firearms and ammunition in his or her control, or which the person possesses or owns. (Pen. Code, § 18120, subd. (b)(1).)

Existing law requires the law enforcement officer serving a GVRO to request that all firearms and ammunition be immediately surrendered. Requires, if the request is not made by a law enforcement officer, the surrender to occur within 24 hours of being served with the order, by surrendering all firearms and ammunition in a safe manner to the control of the local law enforcement agency, selling all firearms and ammunition to a licensed firearms dealer, or transferring all firearms and ammunition to a licensed firearms dealer. (Pen. Code, § 18120, subd. (b)(2) & (3).)

Existing law requires the law enforcement officer or licensed firearms dealer taking possession of any firearms or ammunition to issue a receipt to the person surrendering the firearm, or firearms, or ammunition, or both, at the time of surrender and requires the restrained person to, within 48 hours of being served, do both of the following:

- File with the court that issued the GVRO the original receipt showing all firearms and ammunition have been surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer. Failure to timely file a receipt shall constitute a violation of the restraining order; and,
- File a copy of the receipt with the law enforcement agency, if any, that served the GVRO. Failure to timely file a copy of the receipt shall constitute a violation of the restraining order. (Pen. Code, § 18120, subd. (b)(4) & (5).)

Existing law provides that there is no filing fee for an application, a responsive pleading, or an order to show cause that seeks to obtain, modify, or enforce a GVRO or other authorized order if the request for the other order is necessary to obtain or give effect to a GVRO or other authorized order. Provides that there is no fee for a subpoena filed in connection with that application, responsive pleading, or order to show cause. (Pen. Code, § 18121.)

Existing law allows law enforcement to obtain a temporary GVRO if the officer asserts, and the court finds, that there is reasonable cause to believe the following:

- The subject of the petition poses an immediate and present danger of causing injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition; and,
- A temporary emergency GVRO is necessary to prevent personal injury to the subject of the order or another because less restrictive alternatives have been tried and been ineffective or have been determined to be inadequate or inappropriate under the circumstances. (Pen. Code, § 18125, subd. (a).)

Existing law provides that a temporary GVRO expire 21 days from the date the order is issued. (Pen. Code, § 18125, subd. (b).)

Existing law requires a law enforcement officer who requests a temporary GVRO do all of the following:

- If the request is made orally, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council;
- Serve the order on the restrained person, if the restrained person can reasonably be located;
- File a copy of the order with the court as soon as practicable, but not later than 3 court days, after issuance; and,
- Have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice. (Pen. Code, § 18140.)

Existing law allows any of the following individuals to file a petition requesting that the court issue an ex parte GVRO enjoining a person from having in his or her custody or control, owning, purchasing, or receiving a firearm or ammunition:

- An immediate family member of the subject of the petition;
- An employer of the subject of the petition;
- A coworker, if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer;

- An employee or teacher of a school that the subject has attended in the past 6 months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role;
- A law enforcement officer;
- A roommate of the subject of the petition;
- An individual who has a dating relationship with the subject of the petition; or,
- An individual who has a child in common with the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year. (Pen. Code, § 18150, subd. (a)(1).)

Existing law defines “immediate family member” to mean “any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any person related by consanguinity or affinity within the fourth degree who has had substantial and regular interactions with the subject for at least one year.” (Pen. Code, § 18150, subd. (a)(3).)

Existing law allows a court to issue an ex parte GVRO if an affidavit, made in writing and signed by the petitioner under oath, or an oral statement, and any additional information provided to the court shows there is a substantial likelihood that both of the following are true:

- The subject of the petition poses a significant danger, in the near future, of causing personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm as determined by balancing specified factors.
- An ex parte GVRO is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition. (Pen. Code, §§ 18150, subd. (b) & 18155.)

Existing law requires an ex parte GVRO to be issued or denied on the same day that the petition is submitted to the court unless the petition is filed too late in the day to permit effective review, in which case the order is required to be issued or denied on the next judicial business day. (Pen. Code, § 18150, subd. (d).)

Existing law requires a law enforcement officer to serve the ex parte GVRO on the restrained person, if the restrained person can reasonably be located. Requires the law enforcement officer to inform the restrained person that he or she is entitled to a hearing and provide the date of the scheduled hearing when serving a gun violence restraining order. (Pen. Code, § 18160.)

Existing law provides that an ex parte GVRO expires no later than 21 days from the date the order is issued. (Pen. Code, § 18155, subd. (c).)

Existing law requires the court that issued the order or another court in the same jurisdiction, within 21 days after the date on the temporary GVRO order or the ex parte GVRO order, to hold

a hearing to determine if a GVRO should be issued after notice and hearing. (Pen. Code, §§ 18148 and 18165.)

Existing law allows the following individuals to file a petition requesting that the court issue a GVRO after notice and a hearing enjoining a person from having in his or her custody or control, owning, purchasing, or receiving a firearm or ammunition: an immediate family member of the subject of the petition; an employer of the subject of the petition; a coworker, if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer; an employee or teacher of a school that the subject has attended in the past 6 months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role; a law enforcement officer; A roommate of the subject of the petition; an individual who has a dating relationship with the subject of the petition; or an individual who has a child in common with the subject of the petition, if they have had substantial and regular interactions with the subject for at least one year. (Pen. Code, § 18170.)

Existing law states that at the hearing, the petitioner has the burden of proof, which is to establish by clear and convincing evidence that both of the following are true:

- The person poses a significant danger of causing personal injury to themselves or another by having in the subject's custody or control, owning, purchasing, possessing, or receiving a firearm.
- A GVRO is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition. (Pen. Code, § 18175, subd. (b).)

Existing law provides that in determining whether grounds for a GVRO exist, the court *shall* consider all evidence of the following:

- A recent threat of violence or act of violence by the subject of the petition directed toward another;
- A recent threat of violence or act of violence by the subject of the petition directed toward himself or herself;
- A violation of an emergency protective order issued that is in effect at the time the court is considering the petition;
- A recent violation of an unexpired protective order;
- A conviction for a misdemeanor offense that results in firearm prohibitions; or,
- A pattern of violent acts or violent threats within the past 12 months, including, but not limited to, threats of violence or acts of violence by the subject of the petition directed toward himself, herself, or another. (Pen. Code, § 18155, subd. (b)(1), italics added.)

Existing law defines "recent" for purposes of the above provision to mean within the six months prior to the date the petition was filed. (Pen. Code, § 18155, subd. (c).)

This bill clarifies that a recent threat of violence or act of violence by the subject of the petition directed toward another may apply to an individual, group or location.

Existing law states that in determining whether grounds for a GVRO exist, the court *may* consider any other evidence of an increased risk for violence, including, but not limited to, evidence of any of the following:

- The unlawful and reckless use, display, or brandishing of a firearm by the subject of the petition;
- The history of use, attempted use, or threatened use of physical force by the subject of the petition against another person;
- A prior arrest of the subject of the petition for a felony offense;
- A history of a violation by the subject of the petition of an emergency protective order;
- A history of a violation by the subject of the petition of a protective order;
- Documentary evidence, including, but not limited to, police reports and records of convictions, of either recent criminal offenses by the subject of the petition that involve controlled substances or alcohol or ongoing abuse of controlled substances or alcohol by the subject of the petition; or,
- Evidence of recent acquisition of firearms, ammunition, or other deadly weapons. (Pen. Code, § 18155, subd. (b)(2), italics added.)

This bill clarifies that a recent violation or a history of a violation of a protective order includes comparable firearm-prohibiting, protective orders, including extreme risk protection orders, issued by out-of-state courts.

This bill clarifies that while evidence of recent acquisitions is a factor the court may consider, the court may still issue a gun violence restraining order to temporarily prevent legal access to firearms even if the respondent does not own firearms, ammunition, or other deadly weapons at the time that the court is considering issuing a gun violence restraining order.

This bill adds the following types of evidence that the court may consider when determining whether to issue a GVRO:

- Evidence of stalking;
- Evidence of cruelty to animals;
- Evidence of the respondent's threats of violence towards any person or group because of their actual or perceived race or ethnicity, nationality, religion, disability, gender, or sexual orientation, as defined, including but not limited to, threats using electronic means of communication, including social media postings or messages, text messages, or email;
- Evidence of the respondent's knowing defacement, damage, or destruction of the real or personal property of any other person for the purpose of intimidating or interfering with

the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or of the United States;

- Evidence of the respondent’s threats of violence to advance a political objective or threats of violence to interfere with any other person’s free exercise or enjoyment of any right or privilege secured to them by the Constitution or laws of this state or of the United States, including, but not limited to, threats using electronic means of communication, including social media postings or messages, text messages, or email.

Existing law requires Department of Justice (DOJ) to maintain state summary criminal history information. (Pen. Code, § 11105, subd. (a).)

Existing law defines “state summary criminal history information” as “the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dispositions, sentencing information, and similar data about the person.” (Pen. Code, § 11105, subd. (a)(2)(A).)

Existing law requires DOJ to furnish state summary criminal history information to the specified entities, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, specified restrictions in the Labor Code are followed, including city attorneys pursuing civil gang injunctions or drug abatement actions. (Pen. Code, § 11105, subd. (b).)

Existing law requires a local criminal justice agency, as defined, to furnish local summary criminal history information to specified entities, including city attorneys pursuing civil gang injunctions or drug abatement actions. (Pen. Code, § 13300.)

This bill includes city attorneys and county counsel pursuing GVROs to the list of entities authorized to receive state and local criminal summary information.

COMMENTS

1. Need for This Bill

According to the author of this bill:

AB 2917 clarifies existing law to draw a court’s attention to additional, important risk factors for consideration in the analysis of whether to issue a GVRO. The risk factors added to the statute by this bill include threats of violence made against groups and locations where groups gather, threats made against any person or group protected by California’s hate crimes law, and threats of violence to advance a political objective or to interfere with another person’s exercise of their constitutional rights like voting. When hate is armed with a gun, we cannot wait for these threats to be acted upon. California’s GVRO law provides a mechanism to act when these threats are clear and imminent – allowing for action to prevent a tragedy from occurring. If a person is giving warning signs that they intend to carry out violence in the name of extremist ideology and/or fueled by hate-driven

motivations, action must be taken to disrupt their access to firearms. California has a tool in place which can help prevent tragedies before they occur: the Gun Violence Restraining Order.

2. California's GVRO Law

California's GVRO law, modeled after domestic violence restraining order laws, was signed into law on September 30, 2014, with a delayed implementation date of January 1, 2016. (AB 1014 (Skinner), Ch. 872, Stats. 2014.) A GVRO prohibits 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. A court is required to notify DOJ when a GVRO is issued, renewed, dissolved, or terminated.

Persons who are prohibited from owning or possessing a firearm or ammunition due to a valid order issued out-of-state that is similar or equivalent to California's GVRO law is also prohibited from owning or possessing a firearm or ammunition within the state. (AB 2617 (Gabriel), Ch. 286, Stats. 2020.)

The statutory scheme establishes three types of GVRO's: (1) a temporary emergency GVRO, (2) an ex parte GVRO, and (3) a GVRO issued after notice and hearing.

A temporary emergency GVRO may only be sought by a law enforcement officer. (Pen. Code, § 18125.) To obtain this order, a court must find that the subject of the petition poses an immediate and present danger of causing injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition; and the order is necessary to prevent personal injury to the subject of the order or another because less restrictive alternatives have been tried and been ineffective or have been determined to be inadequate or inappropriate under the circumstances. (*Ibid.*)

The second type of GVRO is an ex parte GVRO, which may be sought by an immediate family member of the subject of the petition; an individual who has a dating relationship with the subject or who has a child in common with the subject; an employer of the subject of the petition; a coworker, if they have had substantial and regular interactions with the subject for at least one year and have obtained the approval of the employer; an employee or teacher of a school that the subject has attended in the past 6 months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role; or a law enforcement officer. The ex parte order may be issued if the court finds that (1) the subject of the petition poses a significant danger, in the near future, of causing personal injury to himself, herself, or another by having under his or her custody and control, owning, purchasing, possessing, or receiving a firearm as determined as determined by considering the factors listed in Penal Code section 18155; and (2) an order is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition. (Pen. Code, § 18150.) The petition for an ex parte GVRO must be supported by an affidavit that sets forth the facts tending to establish the grounds of the petition, or the reason for believing that they exist. (*Ibid.*)

Within 21 days, and before the temporary or ex parte GVRO expires, one of the above listed categories of individuals may request that a court issue the third type of GVRO which is issued

after notice and a hearing, enjoining the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition for a period of one to five years. (Pen. Code, § 18170 et seq.) At the hearing, the petitioner has the burden of proving, by clear and convincing evidence, that both of the following are true: (1) the person poses a significant danger of causing personal injury to themselves or another by having in the subject's custody or control, owning, purchasing, possessing, or receiving a firearm; and (2) a GVRO is necessary to prevent personal injury to the subject of the petition or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition. (Pen. Code, § 18175, subd. (b).) If the court finds that there is clear and convincing evidence to issue a GVRO, the court shall issue a GVRO that prohibits the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm, ammunition, or magazine for a period between one to five years. (Pen. Code, § 18175, subd. (c).) If the court finds that there is not clear and convincing evidence to support the issuance of a GVRO, the court shall dissolve any temporary emergency or ex parte GVRO then in effect. (*Ibid.*)

When making the determination of whether to issue a GVRO, the court must consider certain evidence, such as whether the subject of the petition has committed a recent threat or act of violence, violated specified court protective orders, has been convicted of misdemeanors which would result in firearm prohibitions, or has demonstrated a pattern of violent acts or threats within the prior 12 months. (Pen. Code, §§ 18175, subd. (a) & 18155, subd. (b)(1).) In addition, court may also consider any other evidence of an increased risk for violence, such as whether the subject of the petition unlawfully and recklessly used or displayed a firearm, has a history of violating specified protective orders, has recently been using controlled substances or alcohol, and other enumerated factors. (Pen. Code, §§ 18175, subd. (a) & 18155, subd. (b)(2).)

This bill makes clarifying changes to the evidence the court must consider including specifying the form of the threats may be made using electronic means of communication, including social media postings or messages, text messages, or email and that a threat of violence can be directed toward a specific location, as well as other changes.

This bill provides additional evidence the court may consider including evidence of stalking, evidence of animal cruelty, evidence of threats toward a person or group based on a protected characteristic, and evidence of threats of violence or destruction of property for the purpose of interfering with the free exercise of constitutional right.

3. Data on Issuance of GVROs

The Department of Justice (DOJ) has statutory authority to collect GVRO data. (Pen. Code, § 18115.) According to DOJ's data, since the law went into effect in 2016, courts issued GVROs 86 times in 2016 and 104 times in 2017. Los Angeles County had the highest number of GVROs issued for a total of 32 from 2016 to 2017. The county with the second highest number was Santa Barbara with 21 GVROs. The county that had the highest number of GVROs per capita was Contra Costa.

In 2018, 424 GVROs were issued throughout the state. San Diego County accounted for the majority of the increase with 185 orders issued; the nine Bay Area counties accounted for 53 GVROs with only one issued in San Francisco. In 2019, 700 GVROs were issued and in 2020,

1,284 GVROs were issued. In 2021, there were 1384 GVROs issued with an increased amount of petitions coming from family members and co-workers. In 2022, there were 1,909 GVROs issued. The highest number of GVROs were issued in San Diego County and the second highest from Santa Clara County.

In 2023, a total of 2,703 GVROs were issued. The highest number of GVROs were issued in Santa Clara County and the second highest from San Diego County. The data shows that a law enforcement petitioner accounted for the vast majority of GVRO orders issued overall.

4. Pending Litigation: *United States v. Rahimi*

In *N.Y. State Rifle & Pistol Ass'n v. Bruen* (2022) 142 S.Ct. 2111, the United States Supreme Court established a new test for determining whether a government restriction on carrying a firearm violates the Second Amendment:

[W]hen the Second Amendment's plain text covers an individual's conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation's historical tradition may a court conclude that the individual's conduct falls outside the Second Amendment's "unqualified command." (*Id.* at 2126.)

Based on *Bruen*, the Fifth Circuit Court of Appeals invalidated a federal statute prohibiting a defendant from possessing a firearm pursuant to a domestic violence court order, even after the defendant was involved in five shootings over the course of approximately one month. (*U.S. v. Rahimi* (2023) 61 F.4th 443.) The court examined several different historical statutes to see if there were any analogues which prohibited firearm possession based on civil proceedings alone. (*Id.* at 455-460.) Ultimately, the court found that there were no such relevantly similar historical laws and found that the firearm prohibition was an, "an outlier that our ancestors would never have accepted." (*Id.* at 461.)

The United States Supreme Court is now reviewing the case (certiorari granted *United States v. Rahimi* (2023) 143 S.Ct. 2688). On November 7, 2023, the Court heard oral arguments in the case. The justices' questioning seemed to suggest that they would uphold the law. (See Amy Howe, Justices appear wary of striking down domestic-violence gun restriction, SCOTUSblog (Nov. 7, 2023, 5:47 PM), <https://www.scotusblog.com/2023/11/justices-appear-wary-of-striking-down-domestic-violence-gun-restriction>)

Although the *Rahimi* case deals with domestic violence restraining orders, the inquiry principally revolved around prohibiting firearm possession based on a civil proceeding, which could implicate California's GVRO laws depending on the outcome of the case.

5. Criminal History Information

State summary criminal history information is the master record of information compiled by DOJ pertaining to the identification and criminal history of any person. This information includes name, date of birth, physical description, fingerprints, photographs, arrests, dispositions and similar data. (Pen. Code, § 11105, subd. (a).)

Local summary criminal history information the master record of information compiled by any local criminal justice agency pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person. (Pen. Code, § 13300, subd. (a)(1).)

Existing law limits who can have access to state and local criminal history information by listing specified entities who may receive such information and for what purpose they may be used. This bill adds city attorneys and county counsel pursuing GVROs to the list of entities authorized to receive state and local criminal summary information. Prior arrests and convictions would be contained within local and state criminal history and may provide necessary information to present to the court when determining whether to issue a GVRO.

6. Argument in Support

According to Jewish Public Affairs Committee of California:

In nearly a third of mass shooting incidents from 2015 to 2022, the shooter exhibited warning signs that they posed a risk to themselves or others before the shooting. The bias-motivated shooters at Emanuel African Methodist Episcopal Church in Charleston in 2015, the Pittsburgh Tree of Life synagogue in 2018, the Chabad of Poway shooting here in California in 2019, the El Paso Walmart shooting in 2019, the Tops supermarket in Buffalo in 2022, and the LGBTQ+ nightclub in Colorado Springs in 2022 were no exception. Several of those shooters previously espoused hate-motivated ideologies and glorification of other shooters on social media.

Gun violence restraining orders disrupt access to firearms for individuals in crisis, but can also be used when someone gives warning signs that they intend to imminently carry out violence in the name of extremist ideology and/or fueled by hate-driven motivations.

AB 2917 clarifies existing law to highlight important risk factors judges should consider in deciding whether to issue a GVRO. These clarifications will help ensure this life-saving tool is used to remove firearms before clear threats turn into tragedy. The risk factors added to the statute by this bill include threats of violence made against groups and locations where groups gather, threats made against any person or group protected by California's hate crimes law, and threats of violence to advance a political objective or to interfere with another person's ability to exercise constitutional rights like voting. The bill also codifies important updates to support implementation of California's GVRO law, including recognizing the role that city and county attorneys play in GVRO proceedings and updating the types of communications a court may consider.

7. Argument in Opposition

According to Gun Owners of California:

This legislation is problematic given that “violent speech” – although highly distasteful – is not by any means considered “objective.” Like it or not, the 1st

Amendment protects freedom of speech, even if it is ugly. Without question, the definition of verbal or written threats of violence is extremely subjective especially regarding the advancement of a “political agenda”. It is also a grand stretch to expand the use of GVROs when evidence of animal cruelty is involved. Many of the time-honored training techniques are now considered animal cruelty by animal rights activists, but not by the majority of professionals who work in that particular arena. Any nexus to such a connection is ambiguous at best.

It's also important to note that the constitutionality of Gun Violence Restraining Orders (GVRO) is currently under review by the Supreme Court of the United States (SCOTUS) in *United States v. Rahimi* and is slated to be decided this year. Multiple federal courts across the country have ruled against the use of ex parte legal claims against another person where the accused does not know his accusers and is prevented the opportunity to immediately defend themselves before the court. The violation of a person's 1st, 4th, 5th and 14th Amendment rights under the U.S. Constitution does not justify the government's ability to remove a person's 2nd Amendment rights.

If SCOTUS rules that GRVOs are unconstitutional the entire panoply of California's ever-expanding Red Flag laws will become null and void. It is better for the Legislature to wait for guidance from the Supreme Court before further growing the scope of GVROs in California.

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