
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 303 **Hearing Date:** July 11, 2023
Author: Davies
Version: June 19, 2023
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Firearms: prohibited persons*

HISTORY

Source: Author

Prior Legislation: AB 2551 (McCarty, Ch. 100, Stats. of 2022)
SB 129 (Committee on Budget, Ch. 69, Stats. of 2021)
AB 340 (Irwin, 2019), vetoed by the Governor
SB 94 (Committee on Public Safety, Ch. 25, Stats of 2019)
SB 257 (Nielsen, 2019), held in Assembly Appropriations
SB 140 (Leno, Ch. 95, Stats. of 2013)

Support: California Statewide Law Enforcement Association

Opposition: None known

Assembly Floor Vote: 80 - 0

PURPOSE

The purpose of this bill is to require the Attorney General to provide local law enforcement agencies specified information regarding prohibited persons in the Armed Prohibited Persons System (APPS) database.

Existing law requires the Attorney General to establish and maintain an online database to be known as the Prohibited Armed Persons File; the purpose of which is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1996, as indicated by a record in the Consolidated Firearms Information System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. (Pen. Code § 30000 (a).)

Existing law limits access to the information contained in the Prohibited Armed Persons File to certain entities specified by law, through the California Law Enforcement Telecommunications System, for the purpose of determining if persons are armed and prohibited from possessing firearms. (Pen. Code § 30000 (b).)

Existing law requires that upon entry into the Automated Criminal History System of a disposition for a specified conviction or any firearms possession prohibition identified by the

federal National Instant Criminal Background Check System (NICS), the DOJ shall determine if the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1996, or an assault weapon registration, or a .50 BMG rifle registration. (Pen. Code § 30005 (a).)

Existing law requires that upon an entry into any department automated information system that is used for the identification of persons who are prohibited by state or federal law from acquiring, owning, or possessing firearms, the DOJ shall determine if the subject has an entry in the Consolidated Firearms Information System indicating ownership or possession of a firearm on or after January 1, 1996, or an assault weapon registration, or a .50 BMG rifle registration. (Pen. Code § 30005 (b).)

Existing law establishes the Prohibited Armed Persons File (APPF) which requires the DOJ, once it has a determination that a subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1996, or an assault weapon registration, or a .50 BMG rifle registration, to enter the following information into the file:

- The subject's name;
- The subject's date of birth;
- The subject's physical description;
- Any other identifying information regarding the subject that is deemed necessary by the Attorney General;
- The basis of the firearms possession prohibition; and,
- A description of all firearms owned or possessed by the subject, as reflected by the Consolidated Firearms Information System. (Pen. Code § 30005 (c).)

Existing law requires the Attorney General to provide investigative assistance to local law enforcement agencies to better ensure the investigation of individuals who are armed and prohibited from possessing a firearm. (Pen. Code § 30010.)

Existing law requires the DOJ to annually report to the Joint Legislative Budget Committee and the fiscal committees of each house of the Legislature all of the following information for the immediately preceding calendar year:

- The total number of individuals in the Armed Prohibited Persons System (APPS) and the number of cases which are active and pending, as specified.
- The number of individuals added to the APPS database
- The number of individuals removed from the APPS database, as specified.
- The degree to which the backlog in the APPS has been reduced or eliminated, as specified.
- The number of individuals in the APPS before and after the relevant reporting period, as specified.
- The number of agents and other staff hired for enforcement of the APPS.
- The number of firearms recovered due to enforcement of the APPS.
- The number of contacts made during the APPS enforcement efforts.
- Information regarding task forces or collaboration with local law enforcement on reducing the APPS file or backlog. (Pen. Code §30012.)

Existing law appropriates \$24,000,000 from the Dealers' Record of Sale (DROS) Special Account of the General Fund to the Department of Justice to address the backlog in the APPS and the illegal possession of firearms by those prohibited persons. (Pen. Code § 30015, subd. (a).)

Existing law requires the DOJ to participate in NICS, and to notify a dealer and local law enforcement where a sale was made, that the purchaser was prohibited from possessing a firearm. (Pen. Code, § 28220(b).)

Existing law contains various prohibitions on firearm access for persons convicted of specified offenses. (Pen. Code §29800 et. seq. and §29900 et. seq.)

Existing law provides that if the DOJ determines that a prohibited person has attempted to acquire a firearm, or has attempted to report their acquisition or ownership of a firearm in order to have it listed in the DOJ firearm registry, the department shall notify the local law enforcement agency with primary jurisdiction over the area in which the person was last known to reside of the attempt in a manner and format prescribed by the Department of Justice. (Pen. Code, §29880.)

Existing law provides that if a person attempts to purchase or otherwise acquire ammunition and the sale or other transfer is not approved by the Department of Justice because the person is prohibited from possessing ammunition, the department shall notify the local law enforcement agency with primary jurisdiction in which the person was last known to reside of the attempt. (Pen. Code, §30372, subd. (a).)

Existing law authorizes a local law enforcement agency that receives a notification pursuant to the above to investigate whether the person is in unlawful possession of a firearm, as long as it first confirms that the person is prohibited from possessing ammunition and that the person did in fact attempt to make the reported purchase. (Pen. Code, §30372, subd. (b).)

This bill requires the Attorney General to provide law enforcement agencies the following information regarding prohibited persons in the APPS database in their jurisdiction:

- Personal identifying information;
- Case status;
- Prohibition type or reason;
- Prohibition expiration date;
- Known firearms associated to the prohibited person; and,
- Information regarding previous contacts with the prohibited person, if applicable.

COMMENTS

1. Need for This Bill

According to the Author:

The recent tragedies in both Monterey Park and Half Moon Bay illustrate a dire need for California to reform how our state's gun violence prevention programs are operating. Our Armed Prohibited Persons System (APPS) should be a tool used by

local law enforcement agencies to ensure those deemed unfit to possess a firearm do not do so. Unfortunately, however, there have been reports of little to no communication between state authorities at the California Department of Justice (DOJ) and local officials. This must change. AB 303 is a common-sense measure to require all investigative notes and reports collected by DOJ regarding individuals on the APPS database be shared with our local law enforcement agencies.

2. Armed Prohibited Persons System (APPS): Background and Backlog

Prior to 2001, the removal of firearms from prohibited persons was primarily the responsibility of local law enforcement agencies. DOJ conducted background checks on firearm purchasers, who were subject to a 10-day waiting period, and would notify local law enforcement when a person was identified as prohibited and possessed a registered firearm. Local law enforcement would then confiscate any unlawfully possessed firearms. In the 1990s, this system was deemed inefficient, as it relied heavily on paper records and slow internet and telephonic communication speeds. Consequently, the DOJ was given primary responsibility for direct enforcement of prohibited persons laws.

In 2001, SB 950 (Brulte, Ch. 944, Stats. of 2001) created the Armed Prohibited Persons System (APPS) in response to several high-profile murder cases involving people prohibited from owning firearms. After APPS was eventually implemented in 2006, the number of individuals found to be prohibited from possessing – and in possession – of a firearm increased dramatically, and in the years since has increased at a steady and considerable rate. In 2008, there were 10,266 individuals on the APPS list, and in 2021, the list comprised 23,598 individuals.¹

In 2013, SB 140 (Leno, Ch. 2, Stats. of 2013) appropriated \$24 million from the Dealers Record of Sale (DROS) Special Account to the DOJ to fund enforcement of illegal gun possession by prohibited persons. SB 140 included the following finding and declaration:

The list of armed prohibited persons in California grows by about 15 to 20 people per day. There are currently more than 19,000 armed prohibited persons in California. Collectively, these individuals are believed to be in possession of over 34,000 handguns and 1,590 assault weapons. Neither the Department of Justice nor local law enforcement has sufficient resources to confiscate the enormous backlog of weapons, nor can they keep up with the daily influx of newly prohibited persons.

The 19,000+ cases on the APPS list at the time SB 140 was passed is referred to as the “APPS backlog.” SB 140 required the DOJ to address the backlog and issue an annual report to the legislature for five years in order to provide updates on DOJ’s progress in reducing the backlog. In 2019, at the expiration of that 5-year reporting requirement, SB 94 (Committee on Budget, Ch. 25, Stats. of 2019) provided updated requirements regarding the mandated reporting of APPS database statistics. SB 94 defined “backlog,” for the purposes of the APPS as “the number of cases for which the Department of Justice” did not initiate an investigation within six months of the case being added to the APPS database or for which it has not completed investigatory work within six months of initiating an investigation on the case.”

¹ “Armed and Prohibited Persons Systems Report 2021: Annual Report to the Legislature, SB 94 Legislative Report, Calendar Year 2021.” Available at <https://oag.ca.gov/system/files/attachments/press-docs/APPS%20Report%202021.pdf>

The most recent APPS report to the Legislature pursuant to SB 94 covers calendar year 2022. According to the report, in 2022, DOJ removed 9,917 prohibited persons from the APPS database, and added 9,277 prohibited persons. As of January 1, 2023, the APPS database contained 23,869 armed and prohibited persons, and included 9,294 active cases and 14,575 pending cases.² Compare this to the prior year's report, which indicated that the system had 10,033 active cases and 14,476 pending cases, for a total of 24,509. Although this year marks a move in the right direction, the system's backlog is still significant.³

In its 2021 APPS report, DOJ suggested that greater efforts must be made by courts, local law enforcement, probation and parole to confiscate firearms at the time of prohibition rather than going through the process of trying to locate a person and their firearm(s) some amount of time after they have become prohibited. In its most recent report, the DOJ touts a step toward implementing this recommendation that was enacted by the Legislature last year:

California Penal Code section 29810, describes the role of County courts in the post-conviction relinquishment process. Under this section, if a registered firearm owner is found guilty of a prohibiting crime and fails to relinquish the registered firearm, the courts must assign a probation officer to ensure the firearm is relinquished. However, local governments often lack the necessary resources to do so. Consequently, many individuals found guilty of a prohibiting crime to illegally own guns after their conviction. To aid in this effort, the California Legislature allocated \$40,000,000 to the Judicial Council in the 2022 budget to support a court-based firearm relinquishment program. This program was established “to ensure the consistent and safe removal of firearms from individuals who become prohibited from owning or possessing firearms and ammunition pursuant to court order” (AB 178, 2022 Biennium, 2022 Reg. Sess. (Cal. 2022)). This new grant represents a promising step toward alleviating DOJ's APPS workload and minimizing the threat posed by prohibited persons.⁴

3. DOJ Cooperation with Local Law Enforcement on APPS Cases

The DOJ's APPS reports perennially emphasize the importance of collaboration with local law enforcement agencies in clearing APPS cases. From its 2018 report:

The Department takes pride in its collaborative efforts with its local law enforcement partners. Since the inception of SB 140 (2013), the BOF continues to work with allied law enforcement agencies in an effort to reduce APPS numbers. Experience has shown the most efficient and effective way of working APPS cases in a specific region or jurisdiction is by working collaboratively with local law enforcement agencies. While working jointly with local law enforcement agencies, cases are investigated and processed more efficiently, lost and stolen firearm reports are immediately handled by local law enforcement agencies, cases crossing local

² “Armed and Prohibited Persons Systems Report 2022: Annual Report to the Legislature, SB 94 Legislative Report, Calendar Year 2022.” Available at [Armed and Prohibited Persons System Report 2022 \(ca.gov\)](#); Active cases are those for which the DOJ has not yet begun investigations or is in the process of investigating, while pending cases are those for which the DOJ has exhausted all leads or determined that the person is not within their jurisdiction.

³ See also “California backlog persists on illegal guns.” CalMatters. 4 April 2023. [California gun laws: Backlog in seizures \(calmatters.org\)](#)

⁴ “Armed and Prohibited Persons Systems Report 2022,” at p.4.

jurisdiction boundaries are further pursued by the Bureau, and local law enforcement agencies are often familiar with prohibited APPS individuals or their family members, making it easier to track down these individuals.

The DOJ refers to its successful operations with local agencies as “force multipliers,” and highlights several of these efforts in recent APPS reports, including large-scale regional sweeps that boosted case closures, funding of 10 county sheriff’s offices through the DOJ’s Gun Violence Reduction Program, and the creation of several joint task forces with local agencies in Contra Costa and Los Angeles Counties. According to the 2021 report, much of the success is due to a combination of increased manpower, improved data reporting and communication, and the elimination of duplicative efforts.⁵

However, problems with local collaboration persist. The latest APPS report notes:

Often, agents contact an armed and prohibited individual only to find that local law enforcement has already seized the firearm(s) associated with that individual but neglected to enter the seized firearm into the Automated Firearm System, as [required under existing law]. Entering that information would have removed the individual from the APPS database, allowing DOJ’s agents to focus on another case. Currently, DOJ must reach out to the LEAs to request they update the AFS, or ask for the police report to cross-check the firearms seized and match the associated firearms in the APPS database. Unless the information matches and is verified, the individual cannot be removed from the APPS database. In 2023, many APPS investigations conducted by DOJ involved firearms already in local law enforcement custody. The cost of such oversight cannot be recovered, resulting in duplicative efforts by DOJ that reduce efficiency and waste resources.⁶

In addition to the issues raised by various APPS reports, recent reporting by CalMatters highlights additional areas for improving collaboration between DOJ and local law enforcement on APPS cases. Specifically, according to the reporting, the DOJ had for years prepared a monthly report for LEAs regarding APPS individuals in their respective jurisdiction. CalMatters asked 400 LEAs about these monthly reports; 80 of them acknowledged the reports and more than 150 agencies responded saying they didn’t have such reports.⁷

This bill requires DOJ to provide local law enforcement agencies specific information relating to prohibited persons in the APPS database within their jurisdiction, including personal identifying information, prohibition type and expiration, known firearms associated with the person, and any information regarding previous contacts. A previous version of this bill would have required local agencies to designate at least one employee to receive the information provided by DOJ, which may have remedied the problem identified by the CalMatters report. However, such a change may have imposed a measurable burden on local agencies, which are already facing serious staffing issues. In any event, the bill in its current form represents a useful step toward improving the collaborative efforts discussed in several of the APPS reports cited above.

⁵ “Armed and Prohibited Persons Systems Report 2021,” at pp. 11-12

⁶ “Armed and Prohibited Persons Systems Report 2022,” at p. 11

⁷ “Outgunned: Why California’s groundbreaking firearms law is failing.” CalMatters. Jul. 21, 2021. <<https://calmatters.org/justice/2021/07/california-gun-law-failing/>

4. Related Legislation

AB 732 (Mike Fong) requires the DOJ to provide local law enforcement agencies and the district attorney of a county a regular report via electronic portal regarding individuals residing in their jurisdiction listed in the APPS database who have not provided proof of relinquishment of firearms registered in their name following a conviction. That measure passed out of this committee 5-0.

5. Argument in Support

According to the California Statewide Law Enforcement Association:

[...] We write in support of AB 303 (Davies) which would require the Attorney General to provide specific information to law enforcement agencies regarding persons in the Prohibited Armed Persons File database. This bill seeks to address concerns that there is little to no communication between local law enforcement and authorities at the Department of Justice (DOJ) regarding persons in the Armed Prohibited Persons (APPS) database. AB 303 will rectify this breakdown in communication by establishing requirements that will ensure this necessary communication takes place.

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