
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 1019 **Hearing Date:** March 19, 2024
Author: Blakespear
Version: March 11, 2024
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Firearms: destruction*

HISTORY

Source: Brady Campaign

Prior Legislation: AB 733 (Mike Fong, 2023), vetoed by the Governor
AB 200 (Committee on Budget), Ch. 58, Stats. of 2022
SB 1061 (Monning, 2020), not heard in Senate Public Safety
AB 232 (Ting, 2014), not heard in Assembly Public Safety
AB 538 (Pan), Ch. 738, Stats. of 2013

Support: Brady California; Everytown for Gun Safety Action Fund; Giffords Law Center to Prevent Gun Violence; NeverAgainCA; San Diegans for Gun Violence Prevention; San Diego City Attorney’s Office; Women Against Gun Violence; Women for American Values and Ethics

Opposition: None known

PURPOSE

The purpose of this bill is to require law enforcement agencies to destroy firearms subject to destruction under existing law in their entirety by smelting, shredding, crushing or cutting all parts of the firearm, including any attachments. The bill also requires every law enforcement agency to develop and make available on its website a written policy regarding the destruction of firearms.

Existing law states that when a firearm is taken into custody by a law enforcement officer, the officer shall issue the person who possessed the firearm a receipt describing the firearm, as specified, and listing any serial number or other identification on the firearm. (Pen. Code, §33800.)

Existing law establishes a detailed process governing the return or transfer of a firearm in the custody of a court or law enforcement agency. ((Pen. Code, §§ 33850 – 33895.)

Existing law provides that no law enforcement agency or court shall be required to retain any firearm or related device for more than 180 days after the owner has been notified that the property has been made available for return, and stipulates that an unclaimed firearm may be disposed of after the 180-day period. (Pen. Code, §§ 33875.)

Existing law provides that when any firearm is in the possession of any officer of the state, or of a county, city, or city and county, or of any campus of the University of California or the California State University, and the firearm is an exhibit filed in any criminal action or proceeding which is no longer needed or is unclaimed or abandoned property, which has been in the possession of the officer for at least 180 days, the firearm shall be sold, or destroyed, as provided. (Pen. Code § 34000, subd. (a).)

Existing law provides that any law enforcement agency that has custody of any firearms or any parts of firearms which are subject to destruction may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency, including releasing weapons to another law enforcement agency for a similar use or turning over to the criminalistics laboratory of the DOJ or other local law enforcement entity, but must destroy the weapon when it is no longer needed by the agency for use in carrying out its official duties. (Pen. Code § 34005, subds. (b), (c).)

Existing law authorizes a law enforcement agency that has custody of any firearms or any parts of firearms that are subject to destruction to instead obtain a court order directing the release of the firearm to the sheriff, who must record the firearm in the Automated Firearms System (AFS), and may in turn loan out the firearm to the basic training academy so that the firearms may be used for educational purposes. (Pen. Code § 34005, subd. (d).)

Existing law provides that any weapon which is considered a nuisance under specified provisions of existing law shall be surrendered to the sheriff of a county, the chief of police or other head of a municipal police department of any city or city and county, the chief of police of any campus of the University of California or the California State University, or the Commissioner of the Highway Patrol (CHP). (Pen. Code § 18000, subd. (a).)

Existing law specifies that, for the purposes of the requirement above, the Commissioner of the CHP shall receive only weapons that were confiscated by a member of the CHP. (Pen. Code § 18000, subd. (b).)

Existing law provides that an officer to whom a weapon is surrendered, except upon receiving a certificate, as specified, stating that the retention of the weapon is necessary or proper to the ends of justice, shall destroy the weapon, and, if applicable, submit proof of its destruction to the court. (Pen. Code § 18005, subd. (a).)

Existing law specifies that if any weapon has been stolen and is thereafter recovered, or is used in a manner as to constitute a nuisance without the prior knowledge of its lawful owner that it would be so used, it shall not be destroyed per the above but rather restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with specified provisions of existing law governing the return or transfer of a firearm in the custody or control of a court or law enforcement agency. (Pen. Code § 18005, subd. (b).)

Existing law specifies that no weapon shall be destroyed per the requirement above unless reasonable notice is given to its lawful owner, if the lawful owner's identity and address can be reasonable ascertained. (Pen. Code § 18005, subd. (c).)

Existing law authorizes the Attorney General, a district attorney, or a city attorney to bring an action to enjoin the manufacture, importation of, keeping for sale of, offering or exposing for

sale, giving, lending, or possession of specified weapons, including various types of firearms and firearm precursor parts, and provides that those weapons shall be subject to confiscation and summary destruction, in the same manner specified in §18005, whenever they are found within the state. (Pen. Code § 18010.)

This bill requires every law enforcement agency to develop and maintain a written policy on the destruction of firearms and other weapons including, without limitation, policies for identifying firearms and other weapons that are required to be destroyed, keeping records of those firearms and other weapons, including entry into the Automated Firearms System (AFS), as applicable, and the destruction and disposal of those firearms and other weapons.

This bill specifies that a law enforcement agency that either contracts with, or operates under, a memorandum of understanding (MOU) with another agency for the storage or destruction of weapons or other firearms shall have a policy identifying the other agency and outlining the responsibilities of both agencies under the contract or MOU.

This bill requires every law enforcement agency subject to its provisions to post the weapon destruction policy on its internet website.

This bill defines “destroy” as the destruction of a firearm or other weapon in its entirety by smelting, shredding, crushing, or cutting and shall include all parts including, without limitation, the frame or receiver, barrel, bolt, and grip of a firearm, as applicable, and any attachments including, but not limited to, a sight, scope, silencer, or suppressor, as applicable.

This bill defines “law enforcement agency” as any police department, sheriff’s department, or other department or agency of the state, or any political subdivision thereof, that employs any peace officer, as specified.

This bill makes a technical change and conforming correction to the provision of law authorizing the sale of abandoned or unclaimed firearms, or firearms previously used as evidence in criminal actions, striking the reference to a law enforcement agency’s authority to sell those firearms.

COMMENTS

1. Need for This Bill

According to the Author:

Last December, the New York Times reported that, rather than be destroyed as promised, many of the firearms collected in gun buybacks across the country are recycled and resold online. For those of us devoted to reducing gun violence, especially those of us who work on crafting and passing legislation, the article represented a failure. I assumed things were as they seemed. They were not.

Under existing federal guidelines and state law, guns are legally “destroyed” when a single part – the serialized frame or receiver – of a gun is destroyed. All the things that make a gun a gun, including the barrel, grip, slide, firing pin, and magazine, do not have to be demolished. Instead, the parts can be sold online as gun kits and combined with a frame or receiver to make a new gun. Individuals who want to avoid

registration can easily pair the gun kit with an unserialized frame or receiver to create a “ghost” gun. In practice, this means that all but one piece of a firearm removed from Riverside, California, may end up on the street in Milwaukee as a ghost gun.

SB 1019 is about government doing what it says it’s going to do. When we say we’ll destroy of your unwanted guns for you, we should actually follow through with the implied promise: we are going to destroy your guns. SB 1019 ensures all guns acquired through gun buybacks or confiscated through investigations are completely destroyed.

2. Destruction of Firearms by Law Enforcement Generally

Law enforcement agencies acquire firearms from the communities they serve for a host of reasons and in a variety of ways; they are seized in enforcement actions, relinquished or surrendered by individuals prohibited from possessing them, purchased in gun buyback programs, and sometimes found abandoned. Many jurisdictions, including California (see below), have requirements that firearms acquired in these various ways be destroyed if or when they cannot be returned to a legal owner. However, a recent investigation from the New York Times revealed that in several of these jurisdictions, the guns are not in fact destroyed so as to render them completely inoperable, but rather sent to companies that crush or cut a single piece of the gun that constitutes the “firearm” under federal law and sells the remaining parts as a kit. These kits, which often include barrels, triggers, grips, slides, stocks and springs, can be purchased by individuals across the country and rebuilt into operable firearms. Thus, a firearm seized by a police officer in California and sent to one of these companies for disposal may end up providing parts to a ghost gun built in Florida.¹

These companies operate by taking advantage of a loophole in federal law related to the definition of a “firearm.” Specifically, the federal definition of “firearm” includes the frame or receiver of a gun that provides housing or structure for the rest of the components, and under federal law, every legal frame or receiver must have a unique serial number.² The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) provides guidance depicting acceptable methods for smelting, shredding or crushing the firearm receiver so as to render it legally “destroyed,” and specifies that any method of destruction must render the firearm so that it is not restorable to firing condition and is otherwise reduced to scrap.³ In other words, by destroying the serialized frame or receiver of a firearm but salvaging the remainder of the components, the companies investigated in the New York Times report are technically in compliance with the letter, if not the spirit, of federal law.

The Times investigation also reviewed a contract between a Nevada firearm destruction company called LSC Destruction and Riverside County, California, which stipulated that LSC may sell gun parts to distributors but not to the civilian population. But as the Times notes, distributors often sell to licensed dealers, who sell to the public. LSC’s website also featured a testimonial from an unnamed police official – possibly not linked to Riverside County – saying

¹ “The Guns Were Said to Be Destroyed. Instead, They Were Reborn.” *New York Times*. 10 December 2023. [The Guns Were Said to Be Destroyed. Instead, They Were Reborn. - The New York Times \(nytimes.com\)](https://www.nytimes.com/2023/12/10/us/politics/gun-destruction-reborn.html)

² See [27 CFR § 478.92](https://www.ecfr.gov/current/title-27--alcohol-tax-and-trade/chapter-I--alcohol-tobacco-and-firearms/section-478.92) for the regulations regarding serialization.

³ [How to Properly Destroy Firearms | Bureau of Alcohol, Tobacco, Firearms and Explosives \(atf.gov\)](https://www.atf.gov/firearms/how-to-properly-destroy-firearms)

that “gun buybacks used to be a big headache before contracting with LSC, but now the politicians are happy, and I’m happy too.”

3. Existing California Law Regarding Destruction of Firearms and Effect of This Bill

As mentioned above, law enforcement agencies routinely acquire and retain possession of firearms in the course of their investigatory duties, and must follow a specific process for their disposal set forth in California law. Generally, law enforcement agencies are not required to retain possession of seized or recovered firearms, ammunition feeding devices, or ammunition for more than 180 days after the owner (if one can be identified) has been notified, and may dispose of the firearm, feeding device, or ammunition once the 180-day period has expired.⁴ Moreover, existing law requires that firearms in the possession of law enforcement for at least 180 days and that were exhibits in criminal actions but no longer needed, or were unclaimed or abandoned, must be destroyed.⁵ Although exemptions exist for use of those weapons by law enforcement agencies for a limited time to carry out the duties of the agency, and for specified training purposes, the firearms must be destroyed when they are no longer needed.⁶ Additionally, existing law requires that specified prohibited firearms and crime guns (i.e. guns defined as a “nuisance”) be surrendered to a law enforcement agency, which in turn must destroy the weapon unless a court certifies that retention of the weapon is “necessary or proper to the end of justice.”⁷

To highlight a key distinction for the purposes of this bill, under existing law, guns deemed to be a “nuisance” must be destroyed, guns that were unclaimed, abandoned, or formerly in evidence but no longer needed may be destroyed if they have been in the possession of law enforcement for at least 180 days. Moreover, existing law does not define “destroy” for the purposes of the provisions referenced above. Thus, it is entirely possible for California law enforcement agencies to dispose of firearms either via the “destruction” companies cited in the New York Times investigation. This bill seeks to proscribe this conduct.

Specifically, this bill requires law enforcement agencies to develop and maintain a written policy on the destruction of firearms including policies for identifying firearms and other weapons required to be destroyed, keeping records of those firearms and other weapons, including entry into the DOJ’s Automated Firearms System, and the destruction and disposal of those firearms and other weapons. In addition, this bill, for the purposes of the destruction requirements in existing law, defines “destroy” as destroying a firearm in its entirety by smelting, shredding, crushing, or cutting, including all parts, such as the frame or receiver, barrel, bolt, and grip of a firearm, and any attachments.” Such a thoroughgoing definition of “destroy” is likely to prevent the transfer of firearms subject to disposal by law enforcement to destruction companies that would resell certain components, as the definition of destroy would render those components into useless scrap.

⁴ Penal Code § 33875; The 9th Circuit Court of Appeals ruled in *Wright v. Beck* 981 F.3d 719 (2020) that law enforcement may not destroy seized firearms without providing notice to the owner. [Wright v. Beck, No. 19-55084 \(9th Cir. 2020\) :: Justia](#)

⁵ This bill strikes language in this statute (Penal Code Sec. 34000) which appears to authorize the sale of such firearms. However, the change proposed by that bill is in fact a technical and conforming change to the AB 200 (Committee on Budget), Ch. 58, Stats. of 2022. Thus, the sale of such firearms is not discussed in this analysis as an accurate reflection of existing law, and this bill makes that technical correction.

⁶ Penal Code §§34000, 34005.

⁷ Penal Code §§18000, 18005(a).

The bill's destruction policy requirement applies to any police department, sheriffs' department or other agency that employs peace officers. However, not all such agencies may be regularly engaged in the seizure, retention and destruction of firearms (such as the Department of Fish and Game or the Department of Parks and Recreation, for instance). In fact, the provision of existing law requiring the sale or destruction of unclaimed, abandoned and evidence guns contains an exemption for the Department of Fish and Game.⁸ The Author and Committee may wish to consider a similar limitation on the definition of "law enforcement agency" in this bill.

4. Prior Legislation – AB 733 (Mike Fong, 2023)

Last year, AB 733 would have prohibited any state or local government agency or department from selling any firearm, ammunition or body armor, with limited exceptions, but was vetoed by the Governor. The bill was introduced in part in response to a situation in Los Angeles County in the wake of the mass shooting in Monterey Park, CA. Shortly after the shooting in Monterey Park, L.A. County officials became aware that the L.A. County Probation Department was preparing to sell firearms from their inventory to the public, and the county's board of supervisors passed a last minute motion to halt the sale of surplus firearms in an online auction.⁹ Although the L.A. County Probation Department ultimately cancelled the auction, the incident raised many questions about the prudence of the state adding firearms back into general circulation.¹⁰ Governor Newsom vetoed AB 733 citing cost concerns:

While I applaud the author for efforts to curb gun violence, I am concerned about the cost implications of this legislation. Law enforcement agencies, both local and state, oftentimes sell their firearms to a dealer when they upgrade. I am concerned that this bill, which limits these sales to a dealer who contractually agrees to resell only to a law enforcement agency, will restrict the ability to trade in these firearms and will cost law enforcement agencies across the state millions of dollars at a time when resources are limited, and staffing is low.

5. Argument in Support

According to NeverAgainCA:

In recent years, California has taken steps to promote public safety through initiatives like Governor Newsom's Real Public Safety Plan. The plan created a statewide gun buyback program and has been instrumental in encouraging voluntary firearm surrender. Unfortunately, recent investigative reporting by the New York Times revealed that not all guns surrendered at gun buybacks are being destroyed as expected, including in certain parts of California. The recycling of firearms intended for disposal arises from the federal guidelines on destruction of firearms set by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). According to ATF guidelines, destroying the serialized frame or receiver of a firearm (which constitutes just one part of the whole) is considered an acceptable method of destruction.

⁸ See Pen. Code Sec. 34000, subd. (b).

⁹ "LA County supervisors move to stop 'insensitive' sale of guns by Probation Department." LA Daily News. 25 January 2023. [LA County supervisors move to stop 'insensitive' sale of guns by Probation Department – Daily News](#)

¹⁰ "Editorial: What were L.A. probation officials thinking? Public agencies should not profit from firearm sales." LA Times. 24 January 2023. <https://www.latimes.com/opinion/story/2023-01-24/l-a-probation-firearm-auction-semiautomatic>

Although California Penal Code §18005 mandates that law enforcement agencies destroy surrendered firearms, the statute similarly does not explicitly specify that the entire weapon must be rendered unusable.

As a result, some firearms are only partially destroyed, leaving critical components intact. Companies offering free firearm destruction services often dismantle only a single piece of the gun, allowing the remaining parts to be sold online as gun kits. These gun kits can then be combined with different frames or receivers, effectively circumventing the intent of firearm disposal. Individuals seeking to evade detection can easily pair an unserialized frame or receiver with other components, creating untraceable firearms. This practice poses a grave threat to public safety, as these “ghost guns” can end up in the wrong hands. SB 1019 seeks to rectify this situation by mandating that unwanted and surrendered firearms, whether acquired through gun buyback programs or confiscated by law enforcement, be completely destroyed. This includes attachments such as scopes and silencers. By explicitly requiring the comprehensive destruction of firearms, we can ensure the government is not inadvertently assisting the proliferation of untraceable weapons and enhancing community safety as intended by funding gun buyback programs.

Furthermore, the bill requires law enforcement agencies to develop and maintain a written, publicly available policy regarding firearm destruction. Transparency in this process is crucial to building trust with the public and ensuring accountability. In summary, SB 1019 is a vital step toward responsible firearm disposal. By closing the existing loophole and requiring total destruction, we can safeguard our communities and prevent the misuse of firearm components.

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