

AMENDED IN SENATE JUNE 19, 2019

AMENDED IN ASSEMBLY APRIL 1, 2019

AMENDED IN ASSEMBLY MARCH 13, 2019

AMENDED IN ASSEMBLY FEBRUARY 15, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 12

Introduced by Assembly Members Irwin and Ting
(Principal coauthor: Senator Stern)

December 3, 2018

An act to ~~amend~~ *amend, repeal, and add* Sections 18109, 18120, 18160, 18170, 18175, 18180, 18185, 18190, and 18197 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Irwin. Firearms: gun violence restraining orders.
~~Existing~~

(1) *Existing* law authorizes an immediate family member of a person or a law enforcement officer to request that a court, after notice and a hearing, issue a gun violence restraining order against that person. Under existing law, the petitioner has the burden of proving, by clear and convincing evidence, that the subject of the petition poses a significant danger of causing personal injury and that the order is necessary to prevent personal injury, as specified. Existing law prohibits a person subject to a gun *violence* restraining order from having in the person's custody or control, or owning, purchasing, possessing, or receiving, any firearms or ammunition while that order is in effect. Under existing law, a gun violence restraining order and a renewal gun violence

restraining order have a duration of one year, subject to earlier termination or renewal by the court.

This bill would authorize a law enforcement officer to file a petition for a gun violence restraining order in the name of the law enforcement agency in which the officer is employed. The bill would change the duration of the gun violence restraining order and the renewal of the gun violence restraining order from one year to a period of time between one to 5 years, subject to earlier termination or renewal by the court. The bill would require a court, in determining the duration of the gun violence restraining order, to consider the length of time that the threat of personal injury is likely to continue, and to issue the order based on that determination.

~~Existing~~

(2) Existing law authorizes a person subject to a gun violence restraining order to submit one written request during the effective period of the order for a hearing to terminate the order. Existing law requires the gun violence restraining order to contain a statement advising the restrained person of that hearing right and also requires the court issuing the restraining order to inform the restrained person of that right.

This bill would instead authorize a person subject to a gun violence restraining order to submit one written request per year for a hearing to terminate the restraining order. The bill would make conforming changes and other technical changes.

(3) This bill would make its provisions operative on September 1, 2020.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 18109 of the Penal Code is amended to
- 2 read:
- 3 18109. (a) Nothing in this division shall be interpreted to
- 4 require a law enforcement agency or a law enforcement officer to
- 5 seek a gun violence restraining order in any case, including, but
- 6 not limited to, in a case in which the agency or officer concludes,
- 7 after investigation, that the criteria for issuance of a gun violence
- 8 restraining order are not satisfied.

1 **(b)** *This section shall become inoperative on September 1, 2020,*
2 *and, as of January 1, 2021, is repealed.*

3 **SEC. 2.** *Section 18109 is added to the Penal Code, to read:*

4 **18109.** *(a) This division does not require a law enforcement*
5 *agency or a law enforcement officer to seek a gun violence*
6 *restraining order in any case, including, but not limited to, in a*
7 *case in which the agency or officer concludes, after investigation,*
8 *that the criteria for issuance of a gun violence restraining order*
9 *are not satisfied.*

10 **(b)** *A petition brought by a law enforcement officer may be made*
11 *in the name of the law enforcement agency in which the officer is*
12 *employed.*

13 **(c)** *This section shall become operative on September 1, 2020.*

14 **SEC. 3.** *Section 18120 of the Penal Code is amended to read:*

15 **18120.** *(a) A person subject to a gun violence restraining order*
16 *issued pursuant to this division shall not have in ~~his or her~~ the*
17 *person's custody or control, own, purchase, possess, or receive*
18 *any firearms or ammunition while that order is in effect.*

19 **(b)** *(1) Upon issuance of a gun violence restraining order issued*
20 *pursuant to this division, the court shall order the restrained person*
21 *to surrender all firearms and ammunition in the restrained person's*
22 *custody or control, or which the restrained person possesses or*
23 *owns pursuant to paragraph (2).*

24 **(2)** *The surrender ordered pursuant to paragraph (1) shall occur*
25 *by immediately surrendering all firearms and ammunition in a safe*
26 *manner, upon request of any law enforcement officer, to the control*
27 *of the officer, after being served with the restraining order. A law*
28 *enforcement officer serving a gun violence restraining order that*
29 *indicates that the restrained person possesses any firearms or*
30 *ammunition shall request that all firearms and ammunition be*
31 *immediately surrendered. Alternatively, if no request is made by*
32 *a law enforcement officer, the surrender shall occur within 24*
33 *hours of being served with the order, by surrendering all firearms*
34 *and ammunition in a safe manner to the control of the local law*
35 *enforcement agency, selling all firearms and ammunition to a*
36 *licensed firearms dealer, or transferring all firearms and*
37 *ammunition to a licensed firearms dealer in accordance with*
38 *Section 29830. The law enforcement officer or licensed firearms*
39 *dealer taking possession of any firearms or ammunition pursuant*
40 *to this subdivision shall issue a receipt to the person surrendering*

1 the firearm or firearms or ammunition or both at the time of
2 surrender. A person ordered to surrender all firearms and
3 ammunition pursuant to this subdivision shall, within 48 hours
4 after being served with the order, do both of the following:

5 (A) File with the court that issued the gun violence restraining
6 order the original receipt showing all firearms and ammunition
7 have been surrendered to a local law enforcement agency or sold
8 or transferred to a licensed firearms dealer. Failure to timely file
9 a receipt shall constitute a violation of the restraining order.

10 (B) File a copy of the receipt described in subparagraph (A)
11 with the law enforcement agency that served the gun violence
12 restraining order. Failure to timely file a copy of the receipt shall
13 constitute a violation of the restraining order.

14 (c) (1) Except as provided in paragraph (2), any firearms or
15 ammunition surrendered to a law enforcement officer or law
16 enforcement agency pursuant to this section shall be retained by
17 the law enforcement agency until the expiration of any gun violence
18 restraining order that has been issued against the restrained person.
19 Upon expiration of any order, any firearms or ammunition shall
20 be returned to the restrained person in accordance with the
21 provisions of Chapter 2 (commencing with Section 33850) of
22 Division 11 of Title 4. Firearms or ammunition that are not claimed
23 are subject to the requirements of Section 34000.

24 (2) A restrained person who owns any firearms or ammunition
25 that are in the custody of a law enforcement agency pursuant to
26 this section is entitled to sell any firearms or ammunition to a
27 licensed firearms dealer or transfer any firearms or ammunition
28 to a licensed firearms dealer in accordance with Section 29830,
29 provided that the firearm or firearms or ammunition are otherwise
30 legal to own or possess and the restrained person otherwise has
31 right to title of the firearm or firearms or ammunition.

32 (d) If a person other than the restrained person claims title to
33 any firearms or ammunition surrendered pursuant to this section,
34 ~~and he or she~~ *the person* is determined by the law enforcement
35 agency to be the lawful owner of the firearm or firearms or
36 ammunition, the firearm or firearms or ammunition shall be
37 returned to ~~him or her~~ *the person* pursuant to Chapter 2
38 (commencing with Section 33850) of Division 11 of Title 4.

39 (e) Within one business day of receiving the receipt referred to
40 in paragraph (2) of subdivision (b), the court that issued the order

1 shall transmit a copy of the receipt to the Department of Justice in
2 a manner and pursuant to a process prescribed by the department.

3 *(f) This section shall become inoperative on September 1, 2020,*
4 *and, as of January 1, 2021, is repealed.*

5 SEC. 4. Section 18120 is added to the Penal Code, to read:

6 18120. (a) A person subject to a gun violence restraining order
7 issued pursuant to this division shall not have in the person's
8 custody or control, own, purchase, possess, or receive any firearms
9 or ammunition while that order is in effect.

10 (b) (1) Upon issuance of a gun violence restraining order issued
11 pursuant to this division, the court shall order the restrained person
12 to surrender all firearms and ammunition in the restrained person's
13 custody or control, or which the restrained person possesses or
14 owns pursuant to this subdivision.

15 (2) The surrender ordered pursuant to paragraph (1) shall occur
16 by immediately surrendering all firearms and ammunition in a
17 safe manner, upon request of a law enforcement officer, to the
18 control of the officer, after being served with the restraining order.
19 A law enforcement officer serving a gun violence restraining order
20 that indicates that the restrained person possesses firearms or
21 ammunition shall request that all firearms and ammunition be
22 immediately surrendered.

23 (3) If the gun violence restraining order is issued as an ex parte
24 order or order after notice and hearing, and is served by a person
25 other than a law enforcement officer, and if no request is made by
26 a law enforcement officer, the surrender shall occur within 24
27 hours of being served with the order, by surrendering all firearms
28 and ammunition in a safe manner to the control of a local law
29 enforcement agency, selling all firearms and ammunition to a
30 licensed firearms dealer, or transferring all firearms and
31 ammunition to a licensed firearms dealer in accordance with
32 Section 29830.

33 (4) The law enforcement officer or licensed firearms dealer
34 taking possession of firearms or ammunition pursuant to this
35 subdivision shall issue a receipt to the person surrendering the
36 firearm or firearms or ammunition or both at the time of surrender.

37 (5) A person ordered to surrender all firearms and ammunition
38 pursuant to this subdivision shall, within 48 hours after being
39 served with the order, do both of the following:

1 (A) File with the court that issued the gun violence restraining
2 order the original receipt showing all firearms and ammunition
3 have been surrendered to a local law enforcement agency or sold
4 or transferred to a licensed firearms dealer. Failure to timely file
5 a receipt shall constitute a violation of the restraining order.

6 (B) File a copy of the receipt described in subparagraph (A)
7 with the law enforcement agency, if any, that served the gun
8 violence restraining order. Failure to timely file a copy of the
9 receipt shall constitute a violation of the restraining order.

10 (c) (1) Except as provided in paragraph (2), firearms or
11 ammunition surrendered to a law enforcement officer or law
12 enforcement agency pursuant to this section shall be retained by
13 the law enforcement agency until the expiration of a gun violence
14 restraining order that has been issued against the restrained
15 person. Upon expiration of an order, the firearms or ammunition
16 shall be returned to the restrained person in accordance with the
17 provisions of Chapter 2 (commencing with Section 33850) of
18 Division 11 of Title 4. Firearms or ammunition that are not claimed
19 are subject to the requirements of Section 34000.

20 (2) A restrained person who owns firearms or ammunition that
21 are in the custody of a law enforcement agency pursuant to this
22 section is entitled to sell the firearms or ammunition to a licensed
23 firearms dealer or transfer the firearms or ammunition to a
24 licensed firearms dealer in accordance with Section 29830 if the
25 firearm or firearms or ammunition are otherwise legal to own or
26 possess and the restrained person otherwise has right to title of
27 the firearm or firearms or ammunition.

28 (d) If a person other than the restrained person claims title to
29 firearms or ammunition surrendered pursuant to this section, and
30 the person is determined by the law enforcement agency to be the
31 lawful owner of the firearm or firearms or ammunition, the firearm
32 or firearms or ammunition shall be returned to the person pursuant
33 to Chapter 2 (commencing with Section 33850) of Division 11 of
34 Title 4.

35 (e) Within one business day of receiving the receipt referred to
36 in paragraph (4) of subdivision (b), the court that issued the order
37 shall transmit a copy of the receipt to the Department of Justice
38 in a manner and pursuant to a process prescribed by the
39 department.

40 (f) This section shall become operative on September 1, 2020.

1 *SEC. 5. Section 18160 of the Penal Code is amended to read:*

2 18160. (a) An ex parte gun violence restraining order issued
3 under this chapter shall include all of the following:

4 (1) A statement of the grounds supporting the issuance of the
5 order.

6 (2) The date and time the order expires.

7 (3) The address of the superior court in which any responsive
8 pleading should be filed.

9 (4) The date and time of the scheduled hearing.

10 (5) The following statement:

11
12 “To the restrained person: This order is valid until the expiration
13 date and time noted above. You are required to surrender all
14 firearms, ammunition, and magazines that you own or possess in
15 accordance with Section 18120 of the Penal Code and you may
16 not have in your custody or control, own, purchase, possess, or
17 receive, or attempt to purchase or receive any firearm, ammunition,
18 or magazine while this order is in effect. A hearing will be held
19 on the date and at the time noted above to determine if a more
20 permanent gun violence restraining order should be issued. Failure
21 to appear at that hearing may result in a court making an order
22 against you that is valid for a year. You may seek the advice of an
23 attorney as to any matter connected with the order. The attorney
24 should be consulted promptly so that the attorney may assist you
25 in any matter connected with the order.”

26
27 (b) (1) An ex parte gun violence restraining order shall be
28 personally served on the restrained person by a law enforcement
29 officer, or any person who is at least 18 years of age and not a
30 party to the action, as provided in Section 414.10 of the Code of
31 Civil Procedure, if the restrained person can reasonably be located.

32 (2) When serving a gun violence restraining order, a law
33 enforcement officer shall inform the restrained person of the
34 hearing scheduled pursuant to Section 18165.

35 (3) When serving a gun violence restraining order, a law
36 enforcement officer shall verbally ask the restrained person if ~~he~~
37 ~~or she~~ *the person* has ~~any~~ a firearm, ammunition, or magazine in
38 ~~his or her~~ *the person's* possession or under ~~his or her~~ *the person's*
39 custody or control.

1 (c) This section shall become inoperative on September 1, 2020,
2 and, as of January 1, 2021, is repealed.

3 SEC. 6. Section 18160 is added to the Penal Code, to read:

4 18160. (a) An ex parte gun violence restraining order issued
5 under this chapter shall include all of the following:

6 (1) A statement of the grounds supporting the issuance of the
7 order.

8 (2) The date and time the order expires.

9 (3) The address of the superior court in which a responsive
10 pleading should be filed.

11 (4) The date and time of the scheduled hearing.

12 (5) The following statement:

13
14 “To the restrained person: This order is valid until the expiration
15 date and time noted above. You are required to surrender all
16 firearms, ammunition, and magazines that you own or possess in
17 accordance with Section 18120 of the Penal Code and you may
18 not have in your custody or control, own, purchase, possess, or
19 receive, or attempt to purchase or receive any firearm, ammunition,
20 or magazine while this order is in effect. A hearing will be held
21 on the date and at the time noted above to determine if a more
22 permanent gun violence restraining order should be issued. Failure
23 to appear at that hearing may result in a court making an order
24 against you that is valid for a period of time between one to five
25 years. You may seek the advice of an attorney as to any matter
26 connected with the order. The attorney should be consulted
27 promptly so that the attorney may assist you in any matter
28 connected with the order.”

29
30 (b) (1) An ex parte gun violence restraining order shall be
31 personally served on the restrained person by a law enforcement
32 officer, or by a person as provided in Section 414.10 of the Code
33 of Civil Procedure, if the restrained person can reasonably be
34 located.

35 (2) When serving a gun violence restraining order, a law
36 enforcement officer shall inform the restrained person of the
37 hearing scheduled pursuant to Section 18165.

38 (3) When serving a gun violence restraining order, a law
39 enforcement officer shall verbally ask the restrained person if the

1 *person has a firearm, ammunition, or magazine in the person's*
2 *possession or under the person's custody or control.*

3 *(c) This section shall become operative on September 1, 2020.*

4 *SEC. 7. Section 18170 of the Penal Code is amended to read:*

5 18170. (a) An immediate family member of a person or a law
6 enforcement officer may request that a court, after notice and a
7 hearing, issue a gun violence restraining order enjoining the subject
8 of the petition from having in ~~his or her~~ *the subject's* custody or
9 control, owning, purchasing, possessing, or receiving a firearm or
10 ammunition for a period of one year.

11 (b) For purposes of this subdivision, "immediate family
12 member" has the same meaning as in paragraph (3) of subdivision
13 (b) of Section 422.4.

14 *(c) This section shall become inoperative on September 1, 2020,*
15 *and, as of January 1, 2021, is repealed.*

16 *SEC. 8. Section 18170 is added to the Penal Code, to read:*

17 18170. (a) An immediate family member of a person or a law
18 enforcement officer may request that a court, after notice and a
19 hearing, issue a gun violence restraining order enjoining the
20 subject of the petition from having in the subject's custody or
21 control, owning, purchasing, possessing, or receiving a firearm
22 or ammunition for a period of time between one to five years.

23 (b) For purposes of this section, "immediate family member"
24 has the same meaning as in paragraph (3) of subdivision (b) of
25 Section 422.4.

26 *(c) This section shall become operative on September 1, 2020.*

27 *SEC. 9. Section 18175 of the Penal Code is amended to read:*

28 18175. (a) In determining whether to issue a gun violence
29 restraining order under this chapter, the court shall consider
30 evidence of the facts identified in paragraph (1) of subdivision (b)
31 of Section 18155 and may consider any other evidence of an
32 increased risk for violence, including, but not limited to, evidence
33 of the facts identified in paragraph (2) of subdivision (b) of Section
34 18155.

35 (b) At the hearing, the petitioner shall have the burden of
36 proving, by clear and convincing evidence, that both of the
37 following are true:

38 (1) The subject of the petition, or a person subject to an ex parte
39 gun violence restraining order, as applicable, poses a significant
40 danger of causing personal injury to ~~himself, herself, themselves~~

1 or another by having in ~~his or her~~ *the person's* custody or control,
2 owning, purchasing, possessing, or receiving a firearm or
3 ammunition.

4 (2) A gun violence restraining order is necessary to prevent
5 personal injury to the subject of the petition, or the person subject
6 to an ex parte gun violence restraining order, as applicable, or
7 another because less restrictive alternatives either have been tried
8 and found to be ineffective, or are inadequate or inappropriate for
9 the circumstances of the subject of the petition, or the person
10 subject to an ex parte gun violence restraining order, as applicable.

11 (c) (1) If the court finds that there is clear and convincing
12 evidence to issue a gun violence restraining order, the court shall
13 issue a gun violence restraining order that prohibits the subject of
14 the petition from having in ~~his or her~~ *the subject's* custody or
15 control, owning, purchasing, possessing, or receiving, or attempting
16 to purchase or receive, a firearm or ammunition.

17 (2) If the court finds that there is not clear and convincing
18 evidence to support the issuance of a gun violence restraining
19 order, the court shall dissolve any temporary emergency or ex
20 parte gun violence restraining order then in effect.

21 (d) A gun violence restraining order issued under this chapter
22 has a duration of one year, subject to termination by further order
23 of the court at a hearing held pursuant to Section 18185 and
24 renewal by further order of the court pursuant to Section 18190.

25 (e) *This section shall become inoperative on September 1, 2020,*
26 *and, as of January 1, 2021, is repealed.*

27 SEC. 10. *Section 18175 is added to the Penal Code, to read:*

28 18175. (a) *In determining whether to issue a gun violence*
29 *restraining order under this chapter, the court shall consider*
30 *evidence of the facts identified in paragraph (1) of subdivision (b)*
31 *of Section 18155 and may consider any other evidence of an*
32 *increased risk for violence, including, but not limited to, evidence*
33 *of the facts identified in paragraph (2) of subdivision (b) of Section*
34 *18155.*

35 (b) *At the hearing, the petitioner has the burden of proving, by*
36 *clear and convincing evidence, that both of the following are true:*

37 (1) *The subject of the petition, or a person subject to an ex parte*
38 *gun violence restraining order, as applicable, poses a significant*
39 *danger of causing personal injury to themselves or another by*

1 *having in the person's custody or control, owning, purchasing,*
2 *possessing, or receiving a firearm or ammunition.*

3 *(2) A gun violence restraining order is necessary to prevent*
4 *personal injury to the subject of the petition, or the person subject*
5 *to an ex parte gun violence restraining order, as applicable, or*
6 *another because less restrictive alternatives either have been tried*
7 *and found to be ineffective, or are inadequate or inappropriate*
8 *for the circumstances of the subject of the petition, or the person*
9 *subject to an ex parte gun violence restraining order, as applicable.*

10 *(c) (1) If the court finds that there is clear and convincing*
11 *evidence to issue a gun violence restraining order, the court shall*
12 *issue a gun violence restraining order that prohibits the subject*
13 *of the petition from having in the subject's custody or control,*
14 *owning, purchasing, possessing, or receiving, or attempting to*
15 *purchase or receive, a firearm or ammunition.*

16 *(2) If the court finds that there is not clear and convincing*
17 *evidence to support the issuance of a gun violence restraining*
18 *order, the court shall dissolve a temporary emergency or ex parte*
19 *gun violence restraining order then in effect.*

20 *(d) (1) The court shall issue a gun violence restraining order*
21 *under this chapter for a period of time of one to five years, subject*
22 *to termination by further order of the court at a hearing held*
23 *pursuant to Section 18185 and renewal by further order of the*
24 *court pursuant to Section 18190.*

25 *(2) In determining the duration of the gun violence restraining*
26 *order pursuant to paragraph (1), the court shall consider the length*
27 *of time that the circumstances set forth in subdivision (b) are likely*
28 *to continue, and shall issue the order based on that determination.*

29 *(e) This section shall become operative on September 1, 2020.*

30 *SEC. 11. Section 18180 of the Penal Code is amended to read:*

31 *18180. (a) A gun violence restraining order issued pursuant*
32 *to this chapter shall include all of the following:*

33 *(1) A statement of the grounds supporting the issuance of the*
34 *order.*

35 *(2) The date and time the order expires.*

36 *(3) The address of the superior court for the county in which*
37 *the restrained party resides.*

38 *(4) The following statement:*

39

1 “To the restrained person: This order will last until the date and
2 time noted above. If you have not done so already, you must
3 surrender all firearms, ammunition, and magazines that you own
4 or possess in accordance with Section 18120 of the Penal Code.
5 You may not have in your custody or control, own, purchase,
6 possess, or receive, or attempt to purchase or receive a firearm,
7 ammunition, or magazine, while this order is in effect. Pursuant
8 to Section 18185, you have the right to request one hearing to
9 terminate this order at any time during its effective period. You
10 may seek the advice of an attorney as to any matter connected with
11 the order.”
12

13 (b) When the court issues a gun violence restraining order under
14 this chapter, the court shall inform the restrained person that ~~he or~~
15 ~~she~~ *the person* is entitled to one hearing to request a termination
16 of the order, pursuant to Section 18185, and shall provide the
17 restrained person with a form to request a hearing.

18 (c) *This section shall become inoperative on September 1, 2020,*
19 *and, as of January 1, 2021, is repealed.*

20 SEC. 12. *Section 18180 is added to the Penal Code, to read:*
21 *18180. (a) A gun violence restraining order issued pursuant*
22 *to this chapter shall include all of the following:*

23 (1) *A statement of the grounds supporting the issuance of the*
24 *order.*

25 (2) *The date and time the order expires.*

26 (3) *The address of the superior court for the county in which*
27 *the restrained party resides.*

28 (4) *The following statement:*
29

30 “*To the restrained person: This order will last until the date*
31 *and time noted above. If you have not done so already, you must*
32 *surrender all firearms, ammunition, and magazines that you own*
33 *or possess in accordance with Section 18120 of the Penal Code.*
34 *You may not have in your custody or control, own, purchase,*
35 *possess, or receive, or attempt to purchase or receive a firearm,*
36 *ammunition, or magazine, while this order is in effect. Pursuant*
37 *to Section 18185, you have the right to request a hearing on an*
38 *annual basis to terminate this order during its effective period.*
39 *You may seek the advice of an attorney as to any matter connected*
40 *with the order.”*

1
2 (b) *If the court issues a gun violence restraining order under*
3 *this chapter, the court shall inform the restrained person that the*
4 *person is entitled to a hearing on an annual basis to request a*
5 *termination of the order, pursuant to Section 18185, and shall*
6 *provide the restrained person with a form to request a hearing.*

7 (c) *This section shall become operative on September 1, 2020.*

8 SEC. 13. *Section 18185 of the Penal Code is amended to read:*

9 18185. (a) A person subject to a gun violence restraining order
10 issued under this chapter may submit one written request at any
11 time during the effective period of the order for a hearing to
12 terminate the order.

13 (b) If the court finds after the hearing that there is no longer
14 clear and convincing evidence to believe that paragraphs (1) and
15 (2) of subdivision (b) of Section 18175 are true, the court shall
16 terminate the order.

17 (c) *This section shall become inoperative on September 1, 2020,*
18 *and, as of January 1, 2021, is repealed.*

19 SEC. 14. *Section 18185 is added to the Penal Code, to read:*

20 18185. (a) A person subject to a gun violence restraining order
21 issued under this chapter may submit one written request per year
22 during the effective period of the order for a hearing to terminate
23 the order.

24 (b) *If the court finds after the hearing that there is no longer*
25 *clear and convincing evidence to believe that paragraphs (1) and*
26 *(2) of subdivision (b) of Section 18175 are true, the court shall*
27 *terminate the order.*

28 (c) *This section shall become operative on September 1, 2020.*

29 SEC. 15. *Section 18190 of the Penal Code is amended to read:*

30 18190. (a) (1) An immediate family member of a restrained
31 person or a law enforcement officer may request a renewal of a
32 gun violence restraining order at any time within the three months
33 before the expiration of a gun violence restraining order.

34 (2) For purposes of this subdivision, “immediate family
35 member” has the same meaning as in paragraph (3) of subdivision
36 (b) of Section 422.4.

37 (b) A court may, after notice and a hearing, renew a gun violence
38 restraining order issued under this chapter if the petitioner proves,
39 by clear and convincing evidence, that paragraphs (1) and (2) of
40 subdivision (b) of Section 18175 continue to be true.

1 (c) In determining whether to renew a gun violence restraining
2 order issued under this chapter, the court shall consider evidence
3 of the facts identified in paragraph (1) of subdivision (b) of Section
4 18155 and any other evidence of an increased risk for violence,
5 including, but not limited to, evidence of any of the facts identified
6 in paragraph (2) of subdivision (b) of Section 18155.

7 (d) At the hearing, the petitioner shall have the burden of
8 proving, by clear and convincing evidence, that paragraphs (1)
9 and (2) of subdivision (b) of Section 18175 are true.

10 (e) If the renewal petition is supported by clear and convincing
11 evidence, the court shall renew the gun violence restraining order
12 issued under this chapter.

13 (f) The renewal of a gun violence restraining order issued
14 pursuant to this section shall have a duration of one year, subject
15 to termination by further order of the court at a hearing held
16 pursuant to Section 18185 and further renewal by further order of
17 the court pursuant to this section.

18 (g) A gun violence restraining order renewed pursuant to this
19 section shall include the information identified in subdivision (a)
20 of Section 18180.

21 (h) *This section shall become inoperative on September 1, 2020,*
22 *and, as of January 1, 2021, is repealed.*

23 *SEC. 16. Section 18190 is added to the Penal Code, to read:*

24 *18190. (a) (1) An immediate family member of a restrained*
25 *person or a law enforcement officer may request a renewal of a*
26 *gun violence restraining order at any time within the three months*
27 *before the expiration of a gun violence restraining order.*

28 *(2) For purposes of this subdivision, "immediate family*
29 *member" has the same meaning as in paragraph (3) of subdivision*
30 *(b) of Section 422.4.*

31 *(b) A court may, after notice and a hearing, renew a gun*
32 *violence restraining order issued under this chapter if the petitioner*
33 *proves, by clear and convincing evidence, that paragraphs (1) and*
34 *(2) of subdivision (b) of Section 18175 continue to be true.*

35 *(c) In determining whether to renew a gun violence restraining*
36 *order issued under this chapter, the court shall consider evidence*
37 *of the facts identified in paragraph (1) of subdivision (b) of Section*
38 *18155 and any other evidence of an increased risk for violence,*
39 *including, but not limited to, evidence of any of the facts identified*
40 *in paragraph (2) of subdivision (b) of Section 18155.*

1 (d) At the hearing, the petitioner shall have the burden of
2 proving, by clear and convincing evidence, that paragraphs (1)
3 and (2) of subdivision (b) of Section 18175 are true.

4 (e) If the renewal petition is supported by clear and convincing
5 evidence, the court shall renew the gun violence restraining order
6 issued under this chapter.

7 (f) (1) The renewal of a gun violence restraining order issued
8 pursuant to this section shall have a duration of between one to
9 five years, subject to termination by further order of the court at
10 a hearing held pursuant to Section 18185 and further renewal by
11 further order of the court pursuant to this section.

12 (2) In determining the duration of the gun violence restraining
13 order pursuant to paragraph (1), the court shall consider the length
14 of time that the circumstances set forth in subdivision (b) of Section
15 18175 are likely to continue, and shall issue the order based on
16 that determination.

17 (g) A gun violence restraining order renewed pursuant to this
18 section shall include the information identified in subdivision (a)
19 of Section 18180.

20 (h) This section shall become operative on September 1, 2020.

21 SEC. 17. Section 18197 of the Penal Code is amended to read:

22 18197. (a) If a person subject to a gun violence restraining
23 order issued or renewed pursuant to this chapter was not present
24 in court at the time the order was issued or renewed, the gun
25 violence restraining order shall be personally served on the
26 restrained person by a law enforcement officer or any person who
27 is at least 18 years of age and not a party to the action, as provided
28 in Section 414.10 of the Code of Civil Procedure, if the restrained
29 person can reasonably be located.

30 (b) This section shall become inoperative on September 1, 2020,
31 and, as of January 1, 2021, is repealed.

32 SEC. 18. Section 18197 is added to the Penal Code, to read:

33 18197. (a) If a person subject to a gun violence restraining
34 order issued or renewed pursuant to this chapter was not present
35 in court at the time the order was issued or renewed, the gun
36 violence restraining order shall be personally served on the
37 restrained person by a law enforcement officer, or by a person as
38 provided in Section 414.10 of the Code of Civil Procedure, if the
39 restrained person can reasonably be located.

40 (b) This section shall become operative on September 1, 2020.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly April 1, 2019. (JR11)**

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