

ASSEMBLY THIRD READING

AB 2532 (Irwin)

As Amended May 7, 2020

Majority vote

SUMMARY:

Authorizes a district attorney, county counsel, or city attorney to file a petition on behalf of a law enforcement officer, requesting the issuance or renewal of a gun violence restraining order (GVRO), and may represent the officer at any subsequent related court proceeding.

Major Provisions

- 1) Authorizes a district attorney, county counsel, or city attorney to file a petition on behalf of a law enforcement officer, requesting the issuance or renewal of a GVRO, and may represent the officer at any subsequent related court proceeding.
- 2) Allows a district attorney to make an ex parte application to extend the time for filing a petition to determine if a seized firearm should be returned to the owner of the firearm.
- 3) Provides that a district attorney shall inform the owner or person who had possession of the firearm or other deadly weapon, at that person's last known address, by registered mail, return receipt requested, that the person has 30 days from the receipt of the notice to confirm the person's desire for a hearing, and the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. In the event that the person does not reside at the last known address the district attorney shall make a diligent, good faith effort to find the whereabouts of the person.
- 4) Provides that if a person communicates, to a licensed psychotherapist, a serious threat of physical violence against a reasonably identifiable victim or victims and that threat is conveyed to the district attorney that person may not have possession or custody and control of a deadly weapon for five years from the date of the report.
- 5) States that upon release of a person that has been detained for examination or their mental health, and where a firearm or other deadly weapon has been confiscated, a district attorney has 30 days to file a petition for a hearing to determine if the return of a firearm or other deadly weapon would be likely to result in endangering the person or others, and to notify the person that they have 30 days in which to respond, and if they fail to respond the firearm an order of default will issue.
- 6) Requires the court to transmit a copy of an order of default to the Department of Justice (DOJ).
- 7) Requires the court if a firearm is disposed with, as specified, to transmit a copy of the order to the DOJ.
- 8) Makes several conforming changes.

COMMENTS:

According to the Author:

"As communities across California continue to endure the trauma of gun violence, I am committed to finding every opportunity we can to continue to make a difference in this fight. Following on my efforts from last year with AB 12 and AB 339 which improved upon Gun Violence Restraining Orders and required every law enforcement agency to create policies to use them, I have been presented with an important change that can help increase their use. District Attorneys across the state are willing to step up and assist law enforcement officers in filing for and defending GVROs in court. As a result of their limited jurisdiction however they have been precluded from joining City Attorneys and County Counsels in representing law enforcement in these petitions. AB 2532 will fix this and add thousands of attorneys to the fight against gun violence in California."

Arguments in Support:

The *California District Attorneys Association* states, "As tragic events in Ventura County in 2018 and many others across the country have repeatedly demonstrated, firearms in the hands of mentally ill or potentially violent persons can present the gravest dangers to our communities. Recognizing this risk, legislators provided law enforcement and family members with the ability to obtain Gun Violence Restraining Orders (GVROs) against individuals who pose a danger to themselves or others. In addition to GVROs, the law allows law enforcement to file a civil petition for weapons forfeitures – even when the person is not currently charged with a crime or held in a mental health facility.

"Unfortunately, although the civil firearm forfeiture statutes, PC Section 18400 and W&I Code Section 8102 specify that a 'law enforcement agency' may petition a court to prolong the seizure of a firearm or deadly weapon, the definition of a law enforcement agency does not include district attorneys. Because law enforcement personnel are city and county employees, these proceedings are being handled by city attorneys and county counsels across the state.

"The California District Attorneys Association believes that this omission is unintentional. AB 2532 will correct this oversight by amending existing statutes to incorporate a district attorney as a proper party. This change makes abundant good sense. District attorneys are uniquely situated to address these petitions, in part, because prosecutors are charged with the responsibility of prosecuting crimes or litigating issues of mental health that form the basis for the forfeiture. District attorneys have been expressly designated as the proper party for litigating similar issues in Welfare and Institutions Code § 8103.

"We must continue to do everything possible to restrict access to firearms by those who are mentally ill or potentially violent. AB 2532 addresses an important oversight in achieving that objective and we appreciate your commitment to this vital public safety issue."

Arguments in Opposition:

The *California Rifle and Pistol Association* states, "We are expressing our strong opposition to AB 2532. AB 2532 would amend the GVRO procedures that were created by AB 1014 of 2014. CRPA opposed the current GVRO procedures because they provide a mechanism for an individual to lose the right to keep and bear arms with no due process of law. AB 2532 will further compound these problems by authorizing district attorney, county counsel, or city attorney to file a petition on behalf of a law enforcement officer, requesting the issuance or renewal of these orders, and to represent an officer in any subsequent court proceedings related to the issuance.

"The GVRO system allows for *ex parte* procedures, the individual whose rights are restricted does not have a right to contest any allegation until up to 21 days after the issuance of the original order. Even if the court finds in favor of the person whose rights were restricted, it may take that individual several months to have their firearm returned.....The current GVRO procedures went into effect a little over three years ago. The expansion of authorized petitioners in AB 61 of 2019 do not go into effect until September 2020. There is no evidence that the expansion of GVRO authority is prudent."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, costs (General Fund) to the DOJ of \$160,000 in Fiscal Year (FY) 2020-21, \$277,000 in FY 2021-22, and \$143,000 annually thereafter in additional workload and to update the California Restraining and Protective Order System (CARPOS) to accept "district attorneys" as parties eligible to file for GVROs.

VOTES:**ASM PUBLIC SAFETY: 7-1-0**

YES: Jones-Sawyer, Lackey, Bauer-Kahan, Diep, Carrillo, Santiago, Wicks

NO: Kamlager

ASM APPROPRIATIONS: 15-0-3

YES: Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Diep, Eggman, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

ABS, ABST OR NV: Bigelow, Megan Dahle, Fong

UPDATED:

VERSION: May 7, 2020

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