

Date of Hearing: April 13, 2021
Counsel: Matthew Fleming

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 1237 (Ting) – As Introduced February 19, 2021

SUMMARY: Expands the Department of Justice’s (DOJ) data sharing requirements with regard to researchers affiliated with the California Firearm Violence Research Center at UC Davis, and allows the DOJ, in its discretion, to make available specified information to any other nonprofit bona fide research institution or public agency concerned with the study and prevention of violence, for academic and policy research purposes. Specifically, **this bill:**

- 1) Specifies that the center for research into firearm-related violence be named the California Firearm Violence Research Center at UC Davis.
- 2) Requires DOJ to maintain all available information necessary to identify and trace the history of all recovered firearms that are illegally possessed, have been used in a crime, or are suspected of having been used in a crime, for a period of 25 years rather than 10 years.
- 3) Requires DOJ to share all information necessary to identify and trace the history of all recovered firearms that are illegally possessed, have been used in a crime, or are suspected of having been used in a crime with the California Firearm Violence Research Center at UC Davis.
- 4) Authorizes DOJ, in its discretion, to share the same information with any other nonprofit bona fide research institution or public agency concerned with the study and prevention of violence.
- 5) Requires that Criminal Offender Record Information (CORI) be provided to the California Firearm Violence Research Center at UC Davis and specifies that material identifying individuals shall only be provided for research or statistical activities and shall not be revealed or used for purposes other than research or statistical activities, and reports or publications derived therefrom shall not identify specific individuals.
- 6) Requires, unless expressly and specifically prohibited by statute, that state agencies, including, but not limited to, the Department of Justice, the State Department of Public Health, the State Department of Health Care Services, the Office of Statewide Health Planning and Development, and the Department of Motor Vehicles, provide to the California Firearm Violence Research Center at UC Davis, upon proper request, the data necessary for the center to conduct its research, including material identifying individuals, provided that it is used for research or statistical activities and shall not be revealed or used for purposes other than research or statistical activities, and reports or publications derived therefrom shall not identify specific individuals.

- 7) Requires DOJ to share information that is maintained in the California Restraining and Protective Order System, or any other gun violence restraining order data maintained by DOJ, with researchers affiliated with the University of California Firearm Violence Research Center at UC Davis and gives DOJ discretion, as specified, to provide to any other nonprofit educational bona fide research institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom shall not identify specific individuals.
- 8) Requires DOJ to share information contained in the Prohibited Armed Persons File with researchers affiliated with the California Firearm Violence Research Center at UC Davis and gives DOJ discretion, as specified, to provide to any other nonprofit educational bona fide research institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom shall not identify specific individuals.
- 9) Requires DOJ to retain information pertaining to all sales and transfers of ownership of ammunition for a period of not less than 25 years in the Ammunition Purchase Records File.
- 10) Requires DOJ to share information in the Ammunition Purchase Records File with researchers affiliated with the California Firearm Violence Research Center at UC Davis, and gives DOJ discretion, as specified, to provide to any other nonprofit educational bona fide research institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom shall not identify specific individuals.
- 11) Requires DOJ to retain information pertaining to for all sales and transfers of ownership of a firearm precursor part for a period of not less than 25 years in the Firearm Precursor Part Purchase Records File.
- 12) Requires DOJ to share information contained in the Firearm Precursor Part Purchase Records File with researchers affiliated with the California Firearm Violence Research Center at UC Davis and gives DOJ discretion, as specified, to provide to any other nonprofit educational bona fide research institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom shall not identify specific individuals.
- 13) Requires DOJ to share reports about persons who have been taken into custody because they are a danger to themselves or others on account of a mental health disorder, as specified, with the California Firearm Violence Research Center at UC Davis, and gives DOJ discretion, as specified, to provide to any other nonprofit educational bona fide research institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or

publications derived therefrom shall not identify specific individuals.

- 14) Requires the State Department of State Hospitals (DSH) to share records of information that is necessary to identify persons who are a danger to themselves or others on account of a mental health disorder, as specified, with the California Firearm Violence Research Center at UC Davis, and gives DOJ discretion, as specified, to provide to any other nonprofit educational bona fide research institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom shall not identify specific individuals.
- 15) States that for all material identifying individuals contained in the various data and databases described above, that material shall be provided if it is necessary for the California Firearm Violence Research Center at UC Davis to conduct its research. Material identifying individuals shall only be provided for research or statistical activities and shall not be revealed or used for purposes other than research or statistical activities, and reports or publications derived therefrom shall not identify specific individuals. Reasonable costs to the department associated with the department's processing of that data may be billed to the researcher. If a request for data or letter of support for research using the data is denied, the department shall provide a written statement of the specific reasons for the denial.

EXISTING LAW:

- 1) Establishes the California Firearm Violence Research Center and makes legislative findings and declarations of intent in regards to firearm violence as a public safety and public health issue and the principles to be addressed by the research center. (Pen. Code, §§ 14230 – 14231.)
- 2) States that, subject to conditions and requirements, as specified, state agencies, including, but not limited to, the Department of Justice, the State Department of Public Health, the State Department of Health Care Services, the Office of Statewide Health Planning and Development, and the Department of Motor Vehicles, shall provide to the center, upon proper request, the data necessary for the center to conduct its research. (Pen. Code, § 14231, subd. (d).)
- 3) Authorizes DOJ to provide every public agency or bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders with criminal offender record information, including criminal court records, as required for the performance of its duties, so long as any material identifying individuals is not transferred, revealed, or used for purposes other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that the agency or body pays the cost of the processing of the data, as determined by the Attorney General. (Pen. Code, § 13202, subd. (a).)
- 4) Requires law enforcement agencies, as defined, to report to DOJ all available information necessary to identify and trace the history of all recovered firearms that are illegally possessed, have been used in a crime, or are suspected of having been used in a crime, within seven calendar days of obtaining the information and requires DOJ maintain such

information for a period of 10 years. (Pen. Code, § 11108.3, subs. (a) and (d).)

- 5) States that subject to the conditions and requirements established by law, state agencies, including, but not limited to, the Department of Justice, the State Department of Public Health, the State Department of Health Care Services, the Office of Statewide Health Planning and Development, and the Department of Motor Vehicles, shall provide to the California Firearms Research Center, upon proper request, the data necessary for the center to conduct its research. (Pen. Code, § 14231, subd. (c).)
- 6) States that DOJ shall make information relating to gun violence restraining orders that is maintained in the California Restraining and Protective Order System, or any similar database maintained by the department, available to researchers affiliated with the University of California Firearm Violence Research Center, or, at the department's discretion, to any other nonprofit educational institution or public agency immediately concerned with the study and prevention of violence, for academic and policy research purposes, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom shall not identify specific individuals. (Pen. Code, § 14231.5.)
- 7) Requires the Attorney General shall establish and maintain an online database to be known as the Prohibited Armed Persons File. The purpose of the file 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, subd. (a).)
- 8) Provides that the information contained in the Prohibited Armed Persons File shall only be available specified entities through the California Law Enforcement Telecommunications System, for the purpose of determining if persons are armed and prohibited from possessing firearms. (Pen. Code, § 30000, subd. (b).)
- 9) Requires an ammunition vendor to electronically submit to DOJ specified information for all sales and transfers of ownership of ammunition and requires DOJ to retain this information in a database to be known as the Ammunition Purchase Records File. (Pen .Code, § 30352, subd. (b).)
- 10) Requires a firearm precursor part vendor to electronically submit to DOJ specified information for all sales and transfers of ownership of firearm precursor parts and requires DOJ to retain this information in a database to be known as the Ammunition Purchase Records File. (Pen .Code, § 30452, subd. (b).)
- 11) Provides that a person who, as a result of a mental health disorder, is a danger to others or themselves, may be taken into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services. (Welf. & Inst. § 5150, subd. (a).)
- 12) Requires a facility designated to by a county for evaluation and treatment, who admits a person who is a danger to themselves or others as a result of a mental health disorder to

submit a report, within 24 hours of the admission, to the DOJ containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted, and states that any report submitted pursuant to this paragraph shall be confidential, except for purposes of specified court proceedings and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm. (Welf. & Inst., § 8103, subd. (f)(2)(A) – (B).)

- 13) Requires DSH to maintain and make available to DOJ records that are necessary to identify persons who are prohibited from owning or possessing a firearm or ammunition or a deadly weapon. (Welf. & Inst. § 8104.)
- 14) Provides that a state agency shall not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains unless the information is disclosed, to the University of California, a nonprofit educational institution, or, in the case of education-related data, another nonprofit entity, conducting scientific research, if the request for information is approved by an institutional review board, and all the following criteria have been satisfied:
 - a) The researcher has provided a plan sufficient to protect personal information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect personal information from reasonable anticipated threats to the security or confidentiality of the information;
 - b) The researcher has provided a sufficient plan to destroy or return all personal information as soon as it is no longer needed for the research project, unless the researcher has demonstrated an ongoing need for the personal information for the research project and has provided a long-term plan sufficient to protect the confidentiality of that information; and,
 - c) The researcher has provided sufficient written assurances that the personal information will not be reused or disclosed to any other person or entity, or used in any manner, not approved in the research protocol, except as required by law or for authorized oversight of the research project. (Civ. Code, 1798.24, subd. (t)(1).)
- 15) Requires an institutional review board to, at a minimum, accomplish all of the following as part of its review and approval of the research project for the purpose of protecting personal information held in agency databases:
 - a) Determine whether the requested personal information is needed to conduct the research;
 - b) Permit access to personal information only if it is needed for the research project;
 - c) Permit access only to the minimum necessary personal information needed for the research project;
 - d) Require the assignment of unique subject codes that are not derived from personal information in lieu of social security numbers if the research can still be conducted without social security numbers; and,

- e) If feasible, and if cost, time, and technical expertise permit, require the agency to conduct a portion of the data processing for the researcher to minimize the release of personal information. (Civ. Code, 1798.24, subd. (t)(2).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "Despite a 30 year history of the California Department of Justice (DOJ) sharing data with gun violence researchers, DOJ has stopped sharing this information and continues to create barriers to the study of gun violence. DOJ's decision to cease providing firearm violence-related data to bona fide research organizations, including the State funded UC Firearm Violence Research Center, has real-world adverse effects. This data leads to evidence based policies and programs that reduce deaths and injuries from gun crimes and California must continue to share this data so we to continue to improve our firearms policies and reduce gun violence. AB 1237 reinforces existing law to ensure that DOJ continues to share gun violence data with researchers at the UC Firearms Violence Center and creates a discretionary process for other bona fide research centers doing firearms research to receive data, while ensuring the information remains confidential."
- 2) **University of California Firearms Violence Research Center:** In 2016, the Legislature passed budget trailer bill AB 1602. Among other things, AB 1602 authorized the creation of a research center focused on firearm violence at the University of California. The Violence Prevention Research Program at UC Davis was designated as the home of the new research center.

The research center's mission with respect to firearm violence has three elements:

- 1) To conduct research and develop sound scientific evidence on the nature, causes, consequences, and prevention of firearm violence;
- 2) To disseminate that evidence and promote the adoption of evidence-based firearm violence prevention measures; and,
- 3) To expand and extend such efforts through education and training in firearm violence research and its applications. (UC Davis Violence Prevention Research Program website, available at: <https://health.ucdavis.edu/vprp/>, [as of April 6, 2021].)

According to the UC Davis website, the research center has recruited faculty members who have made long term commitments to conducting firearm violence research. Those faculty include investigators, postdoctoral research fellows, statisticians, and analysts.

The research center produces dozens of publications pertaining to firearm violence. For example, one study was population-based comparison of mortality rates among 238,292 persons who purchased a handgun in California with that in the general adult population of the state during the same time period. (See Wintemute, *Mortality among Recent Purchasers of Handguns*, N. Engl J. Med. 341:1583-1589, Nov. 18, 1999, available at: <https://www.nejm.org/doi/full/10.1056/NEJM199911183412106>, [as of April 7, 2021].) In

order to conduct studies like these, the research center relies predominantly on information provided by California state agencies, such as DOJ.

- 3) **Information-Sharing with the Firearms Research Center:** According to the proponents of this bill, for more than 30 years the Firearms Violence Research Center has had adequate access to information. Recently, however, the research center has been unable to obtain data that was previously made available. (See Orr, “AG Becerra Takes Heat for DOJ’s Move to Restrict Release of Gun Violence Data,” KQED, March 12, 2021, available at: <https://www.kqed.org/news/11864335/ag-becerra-takes-heat-for-dojs-move-to-restrict-release-of-gun-violence-data>, [as of April 7, 2021].) The decision to restrict the provision of information to the firearms research center was apparently made based upon an interpretation of existing law that prohibited such information sharing.

This bill would state that DOJ and other agencies must turn over information in specified databases that is necessary for the center to conduct its research. There is already a similar requirement in current law, but that requirement is explicitly subject to other statutory “conditions and requirements.” This bill would change that language to state that “unless expressly and specifically prohibited elsewhere in statute.” The bill would also amend each of the statutory provisions that require DOJ and other agencies to store information that the center has deemed necessary to conduct its research. It would provide specific, statutory access to databases such as the Armed Prohibited Persons System (APPS), the Criminal Offender Record Information (COIR) database, the precursor parts, ammunition, crime gun tracing, and mental health disorder databases, that relate to the purchase, ownership, transfer, and prohibition against owning or possessing firearms or ammunition. The bill also allows for the sharing of personal information, provided that such information is not made public.

- 4) **Argument in Support:** According to the bill’s sponsor, the *Brady Campaign of California*: “California collects and archives a uniquely rich body of data on potential risk factors for and causes, characteristics, and consequences of gun violence. This data includes records of firearm transactions, crimes involving firearms, armed and prohibited persons, risk protection orders, concealed weapon permit applications, firearm-related deaths and injuries, and other valuable information. California’s firearm violence related data has made possible important research that cannot be conducted in any other state. Results from this research have informed firearm safety laws and policies in California and elsewhere, provided an important resource for law enforcement as well as public health and health care professionals, and made major contributions to advancing understanding of firearm violence. This has helped improve the health and safety of Californians and Americans.

“California recognized the importance of the research of gun violence by creating and funding the Research Center at UC Davis. Additionally, legislation was passed to require state agencies to share information on gun use and violence with the Research Center and allow agencies to share data with other research institutions.

“Recently, DOJ has stopped sharing this important information and continues to create barriers to the study of gun violence. DOJ’s decision to cease providing firearm violence related data to bona fide research organizations has important, real-world adverse effects. This data leads to evidence-based policies and programs that reduce deaths and injuries from gun crimes and California must continue to share this data so we to continue to improve our firearms policies and reduce gun violence.

AB 1237 will play a crucial role in the research ultimately used to prevent the senseless loss of life due to gun violence. This measure does so with safeguards in place to stop the unlawful sharing of personal information as well as provides a mechanism for DOJ to recover the costs associated with providing this data.”

- 5) **Argument in Opposition:** According to the *California Sportsman’s Lobby, INC.*: “The California Sportsmen’s Lobby (CSL) opposes AB 1237.

“It would mandate that the Department of Justice (DOJ) release an individual’s identity and other private information to the California Firearm Violence Research Center at UC Davis (UCD) when providing data for firearm violence research in specified subject areas.

“There is no credible reason why any research institution such as UCD that works with a large volume of general information pertaining to a particular subject matter would possibly need to know the identities of any individuals or their personal information. It’s just not relevant to the larger base of data that is needed for research that is intended to solve firearms violence problems affecting the overall population in general.

“The identities and private information of individuals should not be provided to anyone by DOJ or other state entity other than to a law enforcement agency conducting an investigation that has a specific and lawful need for it. No-one else, not even a researcher, has sufficient justification to have access to it and it would be an unjustified intrusion into such a person’s privacy.

“It is inconceivable that any broad-based research conducted by UCD would require as necessary and justifiable, any specific material identifying an individual or providing their private information in order for it to conduct its research.

“For DOJ or other entity to provide UCD with an individual’s name and other personal information could subject DOJ or other entity and UCD to liability resulting from the inappropriate use of the information by UCD or its ‘affiliates’, or the inappropriate distribution of it by UCD or its affiliates to other unauthorized persons or entities.

“AB 1237 emphasizes providing UCD information that ‘... is necessary for the center to conduct its research...’, but makes no effort to define ‘necessary’ for this purpose or to justify when an individual’s personal information constitutes ‘necessary’ information.

“The bill also would provide that such information can be made available to researchers ‘affiliated’ with UCD, and also at the department’s discretion, ‘...be made available to any other nonprofit bona fide research institution or public agency concerned with the study and prevention of violence, for academic and policy research purposes.’

“However, no effort is made in AB 1237 to define what ‘affiliated’ or ‘nonprofit bona fide research institution or public agency’ means for purposes of the bill. Are these references to outside independent contractors, graduate students or interns, or public agencies which may not be sufficiently qualified or experienced in conducting this kind of research?

“The bill is vague, perhaps constitutionally vague, with respect to exactly what is intended.

How would an individual's identity and private personal information be protected?

"A UCD representative was reported in the Sacramento Bee newspaper on March 4, 2021, as having indicated that UCD would protect personal confidential information by managing it under a secure password-protected server and that only authorized researchers would have access to it.

"This provides little comfort that the information would actually be secure.

"How secure is the UCD password-protected server? The data bases at the Employment Development Department (EDD) and other state entities have been shown to be not as secure as believed. Is the server used by UCD more secure than those of other state entities? CSL believes it is not."

6) **Prior Legislation:**

- a) AB 521 (Berman) Chapter 728, Statutes of 2019, 1) Requires the University of California Firearm Violence Research Center to develop education and training programs for medical and mental health providers on the prevention of firearm-related injury and death and would apply those programs to the University of California (UC) to the extent that the Regents of the University of California choose to do so.
- b) AJR 5 (Jones Sawyer) Chapter 127, Statutes of 2019, urged the federal government to use California as an example for firearm safety and to pass legislation that would provide universal firearm safety regulation throughout the nation.
- c) AB 1602 (Committee on Budget) Chapter 24, Statutes of 2016, this budget trailer bill established the provisions of law pertaining to the firearm violence research center at the University of California.

REGISTERED SUPPORT / OPPOSITION:

Support

Brady Campaign (Sponsor)
 Brady Campaign California (Sponsor)
 Coalition to Stop Gun Violence
 Friends Committee on Legislation of California
 Giffords
 Laguna Woods Democratic Club
 National Association of Social Workers, California Chapter
 San Diegans for Gun Violence Prevention
 The Violence Prevention Coalition of Orange County
 Women Against Gun Violence

Oppose

California Sportsman's Lobby, INC.
Gun Owners of California, INC.
Outdoor Sportsmen's Coalition of California
Safari Club International - California Chapters

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