

CONCURRENCE IN SENATE AMENDMENTS

AB 2870 (Santiago)

As Amended August 11, 2022

Majority vote

SUMMARY

Expands the category of persons that may file a petition requesting a court to issue a gun violence restraining order (GVRO).

Senate Amendments delete the Assembly version of this bill and instead:

- 1) Allows the following persons to file a GVRO:
 - a) A roommate of the subject of the petition, as defined;
 - b) An individual who has a dating relationship with the subject of the petition, as defined; and,
 - c) An individual who has a child in common with the subject of the petition, if they have had substantial and regular interaction with the subject for at least one year.
- 2) Expands the definition of "immediate family member" for purposes of filing a GVRO to include any person related by consanguinity or affinity within the fourth degree who has had substantial and regular interactions with the subject for at least one year.

COMMENTS

Background: California's GVRO laws, modeled after domestic violence restraining order laws, went into effect on January 1, 2016. (AB 1014 (Skinner), Chapter 872, Statutes of 2014.) A GVRO prohibits the restrained person from purchasing or possessing firearms or ammunition and authorizes law enforcement to remove any firearms or ammunition already in the individual's possession.

The statutory scheme establishes three types of GVRO's: a temporary emergency GVRO, an ex parte GVRO, and a GVRO issued after notice and hearing. A temporary emergency GVRO may only be sought by a law enforcement officer and it is not affected by the provisions of this bill. The other two kinds of GVROs are ex-parte (direct communication to the court without the knowledge of the subject of the order) and a GVRO that is issued after notice to the subject and a hearing at which the person has an opportunity to be heard.

Current law limits who can file a GVRO to specific immediate family members, employers, specified coworkers, specified employees or teachers, and law enforcement officers. This bill expands who may file a petition for a GVRO. This bill expands who may file a petition for a GVRO. It allows more immediately family members to file for a GRVO by including in the definition of "immediate family member" any person related by consanguinity or affinity within the fourth degree who has had substantial and regular interactions with the subject for at least one year. Additionally, the bill permits a roommate, a person in a dating relationship, as well as an individual who has a child in common with a person to file a GVRO.

According to the Author

"This year, there have been at least 243 mass shootings in the [United States], eight of them taking place in a span of a week, according to the Gun Violence Archive. Strong gun laws have proven to save lives. In 2020, the year with the latest data available, California's firearm death rate was 8.5 per 100,000 — the seventh lowest in the nation, according to the Centers for Disease Control and Prevention, while Texas had a gun mortality rate of 14.2 per 100,000.

"Studies have shown that California's "red flag" laws have prevented over 58 mass shootings. Unfortunately, California experienced an average of 44 mass shootings per year between 2013 and 2021. That translates to one mass shooting every 8.3 days. Strengthening the state's "red flag" laws can prevent more mass shootings.

"In order to get guns out of our communities and keep people safe, AB 2870 will expand California's red flag laws to include more family member such as aunts, uncles, and cousins, as well as dating partners and individuals with a child in common with the subject of the petition. The bill will also clarify that roommates can access Gun Violence Restraining Orders.

"Enough is enough. Expanding common sense gun safety measures with this bill will help reduce the gun violence epidemic."

Arguments in Support

According to the *California State Association of Psychiatrists*, "California's red flag laws allow for the temporary removal of guns and ammunition from individuals who are at risk of harming themselves or others. They empower immediate family members, employers, coworkers, teachers, and law enforcement officers to file a petition with the court to temporarily remove a person's firearms and prevent them from purchasing new firearms. By strengthening GVRO laws, by increasing access to GVROs, AB 2870 has the potential to additionally curb or prevent instances of gun violence in California."

Arguments in Opposition

According to the *National Rifle Association - Institute for Legislative Action*, "AB 2870 is yet another expansion, allowing ... individuals with a child in common, ... roommates, ... and dating partners to petition to remove an individual's constitutional rights.

By substantially increasing the range of people who can petition for a GVRO, this bill could open the GVRO system to abuse by a disgruntled former roommate or dating partner. Because the GVRO system already allows for ex parte procedures, the individual whose rights would be restricted would not have an opportunity to contest any allegations 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 firearms returned."

FISCAL COMMENTS

None.

VOTES:**ASM GOVERNMENTAL ORGANIZATION: 19-0-3**

YES: Santiago, Bigelow, Aguiar-Curry, Berman, Bryan, Cooley, Cooper, Megan Dahle, Daly, Davies, Gipson, Jones-Sawyer, Lackey, Low, Mathis, Ramos, Blanca Rubio, Salas, Smith
ABS, ABST OR NV: Eduardo Garcia, Quirk-Silva, Robert Rivas

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Bigelow, Bryan, Calderon, Carrillo, Megan Dahle, Voepel, Mike Fong, Fong, Gabriel, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

ABS, ABST OR NV: Eduardo Garcia

ASSEMBLY FLOOR: 73-0-5

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

ABS, ABST OR NV: Berman, Bloom, Irwin, O'Donnell, Blanca Rubio

SENATE FLOOR: 31-5-4

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Dahle, Grove, Jones, Melendez, Ochoa Bogh

ABS, ABST OR NV: Bates, Borgeas, Nielsen, Wilk

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