

Date of Hearing: March 21, 2023

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
AB 29 (Gabriel) – As Amended February 15, 2023

SUBJECT: Firearms: California Do Not Sell List.

SUMMARY: Requires the Department of Justice (DOJ) to develop and launch a secure Internet-based platform to allow a person who resides in California to voluntarily add their own name to the California Do Not Sell List (the registry) for firearms, which prohibits an individual from purchasing a firearm. Requires the State Department of Public Health (DPH) to create and distribute informational materials about the registry to general acute care hospitals (GACHs), acute psychiatric hospitals (APHs) and suicide hotlines, and encourages GACHs, APHs, and suicide hotlines to provide those informational materials to a person who is at a substantially elevated risk of suicide. Specifically, **this bill**:

- 1) Requires DOJ to develop and launch a secure Internet-based platform to allow a person who resides in California to voluntarily add their own name to the registry. Requires DOJ in cooperation with DPH, and other relevant state agencies to ensure that the Internet-based platform is easy to find.
- 2) Requires DOJ to ensure that the Internet-based platform does all of the following credibly:
 - a) Verifies the identity of a person who opts to register or requests removal;
 - b) Prevents unauthorized disclosure of a person registering or requesting removal; and,
 - c) Informs the potential registrant of the legal effects of registration or removal.
- 3) Authorizes a person who resides in California to request, once the Internet-based platform is operative, to be added to the registry. Requires DOJ, on an ongoing basis, to ensure that registry information is uploaded and reflected in the National Instant Criminal Background Check System (NICS) Index for California. Prohibits the registry from being used for any purpose other than to determine eligibility to purchase a firearm.
- 4) Authorizes, but does not require, at the time of registration, a person to list up to five electronic mail (email) addresses with the registry to be notified that the person has voluntarily added their name to the registry or that the person has requested that their name be removed from the registry. Requires DOJ to promptly provide notice by email to the provided email addresses of the fact that the person has requested to be removed from the registry.
- 5) Authorizes a person to request at any time that any of the email addresses provided DOJ at the time of registration be removed from the registry. Requires DOJ to promptly provide notice by email to the provided email address of the fact that the person has requested that the email address not receive notifications.
- 6) Renders receipt of a firearm by a registrant unlawful, however, provides that possession after the moment of receipt is not unlawful and prohibits the fact of possession from being relied upon to prove a violation of these provisions.

- 7) Makes it unlawful to knowingly transfer a firearm to a person who is on the registry with knowledge that the person is validly registered. Makes a violation of this provision a misdemeanor.
- 8) Makes a violation of this bill a misdemeanor, and a violation by a licensed firearms dealer a misdemeanor including a fine of two thousand dollars (\$2,000) and the possible revocation of the dealer's license.
- 9) Authorizes a person to file a request for removal from the registry no sooner than seven days after filing a voluntary waiver of firearm rights.
- 10) Requires DOJ, no sooner than 21 days after receiving a request for removal of a voluntary waiver of firearm rights, to remove the person from the NICS Index for California and any other federal or state computer-based systems used by law enforcement agencies or others to identify prohibited purchasers of firearms in which the person was entered, unless the person is otherwise ineligible to possess a firearm pursuant to any other law.
- 11) Makes the fact that a person has requested to be added to the registry, is on the registry, has requested to be removed from the registry, or has been removed from the registry is confidential with respect to all matters involving health care, employment, education, housing, insurance, government benefits, and contracting.
- 12) Specifies that a violation of confidentiality occurs if a person or entity engaged in any activity described in 11) above, other than a healthcare professional, therapist, or counselor, inquires as to any confidential matter described in 11) above, or if any person described in 11) above, including, but not limited to, a healthcare professional, therapist, or counselor, takes any adverse action based on that information.
- 13) Authorizes the person whose confidentiality is violated by an inquiry or adverse action in violation of this bill to bring a private civil action for appropriate relief, including reasonable attorney's fees, for each violation that occurs.
- 14) Prohibits a person from being required to voluntarily waive their firearm rights as a condition of employment or of receiving any benefits or services.
- 15) Requires DPH to create and distribute informational materials, including information on how to access the registry's Internet-based platform, to GACHs and APHs.
- 16) Encourages a GACH or an APH to present the informational materials described in 15) above to a person who is reasonably believed by the treating clinician to be at substantially elevated risk of suicide.
- 17) Encourages a suicide hotline maintained or operated by an entity funded in whole or in part by the state to inform callers on how to access the registry's Internet-based platform.
- 18) Includes severability provisions.

EXISTING LAW:

- 1) Establishes the Attorney General as head of the DOJ. [Government Code Section §12510]
- 2) Provides for an automated system for tracking firearms and assault weapon owners who might fall into a prohibited status. The online database, which is known as the Armed Prohibited Persons System, cross-references all handgun and assault weapon owners across the state against criminal history records to determine whether a person is prohibited from possessing a firearm. [Penal Code (PC) § 30000, *et seq.*]
- 3) Prohibits persons who know or have reasonable cause to believe that the recipient is prohibited from having firearms and ammunition to supply or provide the same with firearms or ammunition. [PC §§ 27500, 30306; and Welfare & Institutions Code (WIC) § 8101]
- 4) Provides that persons convicted of felonies and certain violent misdemeanors are prohibited from owning or possessing a firearm. [PC §§ 29800 & 29805]
- 5) Prohibits a person from possessing or owning a firearm that is subject to specified restraining orders. [PC § 29825]
- 6) Prohibits a person who has been taken into custody and admitted to a designated facility on a 72-hour hold because that person is a danger to themselves or to others, as specified, from owning or possessing any firearm for a period of five years after the person is released from the facility. [WIC § 8103(f)(1)]
- 7) Establishes DPH to protect and improve the health of communities through education, promotion of healthy lifestyles, and research disease and injury prevention. (Health and Safety Code (HSC) §131000 *et seq.*)
- 8) Licenses and regulates hospitals, including GACHs and APHs, by DPH. Permits GACHs, in addition to the basic services all hospitals are required to offer, to be approved by DPH to offer special services, including, among other services, an emergency department (ED), and psychiatric services. [HSC §1250 and §1255, *et seq.*]
- 9) Defines an APH as a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for persons with mental health disorders, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services. [Ibid.]

FISCAL EFFECT: Unknown. This bill has not yet been analyzed by a fiscal committee.

COMMENTS:

- 1) **PURPOSE OF THIS BILL.** According to the author, Centers for Disease Control and Prevention (CDC) data show that 1,586 people died by gun suicide in California in 2019, and more than one-third of all suicides in California are by firearm. The author notes that suicide has surpassed homicides as the most prevalent cause of death resulting from the misuse of a firearm in the state. The author states that this bill provides those battling suicidal thoughts an option to protect themselves by temporarily limiting their access to purchase firearms during a time of crisis because we know suicide can be an impulsive decision that most survivors

regret. The author concludes that guns are lethal and, unfortunately, rarely allow for second chances, and this bill takes action on the data that shows a correlation between mental illness, suicidal thoughts, and gun purchases.

- 2) **BACKGROUND.** Suicide is a serious public health concern that is responsible for almost one million deaths each year worldwide. It is commonly an impulsive act by a vulnerable individual. The impulsivity of suicide provides opportunities to reduce the risk of suicide by restricting access to lethal means. According to the National Institute of Health, in the United States, firearms, particularly handguns, are the most common means of suicide.

The World Health Organization (WHO) has identified suicide as a serious public health concern that is responsible for more deaths worldwide each year than homicide and war combined, with almost one million suicides now occurring annually. According to a 2005 *Journal of American Medicine* article, “Suicide prevention by limiting access to methods: a review of theory and practice,” psychiatric disorders are present in at least 90% of suicide victims, but untreated in more than 80% of these at the time of death. Treatment of depression and other mood disorders is therefore a central component of suicide prevention. Other factors associated with suicidal behavior include physical illness, alcohol and drug abuse, access to lethal means, and impulsivity. All of these are potentially amenable to modification or treatment if recognized and addressed. The impulsivity of suicide provides opportunities to reduce suicide risk by restriction of access to lethal means of suicide (“means restriction”).

Numerous medical organizations and governmental agencies, including the WHO, the European Union, the Department of Health in England, the American College of Physicians, the CDC and the Institute of Medicine have recommended that means restriction be included in suicide prevention strategies.

California Data. Vital statistics data are collected from death certificates for all violent deaths that occur in California. According to DPH data, there were 6,902 violent deaths to Californians in 2020. Sixty percent of these (4,143) were deaths due to suicide. The rate of death by suicide was 10.4 suicides per 100,000 individuals. There were nearly twice as many suicides as homicides.

More than three-quarters of those who died by suicide (78%) were male. Among those aged 65 years and older, 82% of those who died by suicide were male. The rate of suicide death among males (16.2 per 100,000) was 3.5 times the rate among females (4.6 per 100,000) and was higher than females across the lifespan.

Among males, rates of death by suicide generally increased with age; the highest rates were in males aged 85 years and older (46.2 per 100,000) with a smaller peak at ages 25-34 (23.6 per 100,000). Among females who died by suicide, rates changed less with age; the rate was highest at ages 45-54 (6.6 per 100,000). In older age groups, the rates of suicide among males were up to 12 times higher than females.

There were five suicide deaths among youth under the age of 10 in 2020; these are the first reported deaths by suicide in this age group among California residents since the inception of CalVDRS (violent death reporting system) in 2017.

Most of those who died by suicide were people who were White (61%) or Hispanic (23%). The highest rates of death by suicide were among people who were White (16.7 per 100,000). However, Blacks accounted for a small percentage for self-harm ED visits but the highest average monthly ED visit rate compared to other racial groups. This means that, although there is a small number of people who are Black that visit the ED for self-harm injury, this group is at elevated risk of self-harm ED visits. Other state data revealed that the suicide rate for Black Californians 18 to 24 years of age doubled from about six of every 100,000 in 2014 to 12 of every 100,000 in 2020.

Firearms were used in one out of every three suicide deaths (37%). Firearms were the most commonly used weapon among males who died by suicide, used in 43% of deaths. Among females, the most used mechanisms were hanging/suffocation (38%) and poisoning (28%). Firearms were used by 19% of females who died by suicide. Among younger people who died by suicide, hanging/suffocation was the most common method used; hanging/suffocation was used in 56% of those younger than 18 who died by suicide and in 43% of those aged 18 to 24. The use of firearms as a method of suicide increased with age; firearms were used among 28% of those younger than 25 years old, 32% of those aged 25 to 64, and in 59% of those older than 65 years.

- 3) **SUPPORT.** The California State Association of Psychiatrists (CSAP) is the sponsor of this bill and states that there is strong evidence that access to firearms, whether from household availability or a new purchase, is associated with an increased risk of suicide. CSAP notes that according to the CDC, suicides make up 52% of all firearm deaths in California, and more than one-third of all suicides in California are by firearm. CSAP contends that this decision could be preventable pointing to a recent study that found that close to a third of the general population and more than 40% of those with previously diagnosed mental health concerns would add their name to the registry if they had the option.
- 4) **PREVIOUS LEGISLATION.** AB 1927 (Bonta) of 2018, was similar to this bill. AB 1927 was vetoed by Governor Edmund G. Brown, Jr., who stated in part: “The Department of Justice is currently implementing a number of large scale changes to our gun laws, and I think that any information regarding a system for self-exclusion from gun purchases can be obtained through existing means. The Legislature's standing committees, as well as California's Violence Prevention Research Center are existing avenues through which this inquiry can be conducted.”
- 5) **DOUBLE REFERRAL.** This bill is double referred; it passed the Assembly Committee on Public Safety with an 8-0 vote on February 14, 2023.
- 6) **POLICY COMMENT.** As this bill moves through the Legislative process, the author may wish to work with GACHs, APHs, and suicide prevention hotlines to determine the best way to disseminate information regarding the registry.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Association of Psychiatrists (sponsor)
Brady Campaign

Brady Campaign California
California Council of Community Behavioral Health Agencies
Everytown for Gun Safety Action Fund
March for Our Lives Action Fund
National Association of Social Workers, California Chapter
Prosecutors Alliance California
Steinberg Institute
Women Against Gun Violence

Opposition

None on file.

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