

Date of Hearing: March 7, 2023  
Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY  
Reginald Byron Jones-Sawyer, Sr., Chair

AB 97 (Rodriguez) – As Introduced January 9, 2023

**As Proposed to be Amended in Committee**

**SUMMARY:** Requires the Department of Justice (DOJ) to report data on arrests and prosecutions of specified misdemeanor offenses related to unserialized firearms. **Specifically,** this bill:

- 1) Requires DOJ to collect and report data on arrests made by law enforcement agencies for the following offenses related to firearms without a valid state or federal serial number:
  - a) The number of misdemeanor arrests for buying, selling, receiving, or possessing a firearm with a removed or altered serial number, or for possessing a firearm without a valid serial number; and
  - b) The number of misdemeanor arrests for failing to obtain a valid serial number for a manufactured or assembled firearm.
- 2) Requires DOJ to collect and report the following data:
  - a) The disposition of those arrests for the above misdemeanor offenses, including information about whether an arrestee was booked, cited, or released from custody; and
  - b) Starting on January 1, 2029, the disposition of prosecutions for the above misdemeanor offenses reported to the department, as specified, including whether charges were dismissed, whether the defendant was acquitted or convicted, or whether the charges were resolved on other grounds, including as a result of plea bargaining.
- 3) Requires DOJ to issue a report to the Legislature by January 1, 2025, and annually thereafter, detailing the collected data.
- 4) Sunsets the reporting requirement on January 1, 2033.

**EXISTING LAW:**

- 1) Provides that any person who buys, sells, receives, or possesses a firearm knowing that the serial number or other mark of identification has been changed, altered, or removed, is guilty of a misdemeanor. (Pen. Code, § 23920, subd. (a).)
- 2) Provides that any person who knowingly possesses a firearm that do not have a valid serial number or mark of identification is guilty of a misdemeanor. (Pen. Code, § 23920, subd. (b).)

- 3) Requires, beginning July 1, 2018, a person manufacturing or assembling a firearm to apply to the DOJ for a unique serial number or other mark of identification for that firearm. (Pen. Code, § 29180, subd. (b)(1).)
- 4) Punishes the failure to obtain a serial number from DOJ as a misdemeanor, as specified. (Pen. Code, § 29180, subd. (g).)
- 5) Mandates the Criminal Justice Statistics Center (CJSC) within the DOJ to collect “data elements,” as specified, from all state and local prosecutor offices that prosecute misdemeanors and felonies, including district attorney offices, city attorney offices, and the Attorney General’s Office. (Pen. Code, § 13370, *et seq.*)
- 6) Requires every state and local prosecutor office that prosecutes misdemeanors and felonies, beginning on March 1, 2027, to collect data, as specified, for cases in which a decision to reject charges or to initiate criminal proceedings by way of complaint or indictment has been made by that agency. (Pen. Code, § 13370, subd. (d)(1).)
- 7) Requires prosecuting agencies, beginning on June 1, 2027, to begin transmitting required data to DOJ. (Pen. Code, § 13370, subd. (d)(2).)
- 8) Requires DOJ, beginning June 1, 2027, to begin collecting data elements from all agencies statewide, as specified. (Pen. Code, § 13370, subd. (d)(3).)
- 9) Requires DOJ to aggregate data elements for all agencies in order to publish the data from those agencies by June 1, 2028. (Pen. Code, § 13370, subd. (d)(3).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, AB 97 is an important public safety measure for the Legislature to gain a comprehensive picture of the proliferation of ghost guns in California and how criminals are being prosecuted. There are no records of existence for ghost guns – inhibiting law enforcement efforts to trace the firearm to the owner when used in a crime. That and the fact that these deadly weapons do not require a background check make ghost guns popular among criminals.

In the last several years, the number of ghost guns recovered has increased. In 2021, Los Angeles Police Department released a report stating ghost guns contributed to more than 100 violent crimes, including 24 murders, 8 attempted homicides, and dozens of armed robberies and assaults. In the first six months of the year, the Department confiscated 863 ghost guns, nearly 300% over the previous year. Enough is enough. These firearms are being used to kill members of our community, including our law enforcement officers. By passing AB 97, the Legislature can get a clear picture of how many ghost guns law enforcement recovers annually to inform future policy.

- 2) **Crime Data:** “The California Attorney General has the duty to collect, analyze, and report statistical data, which provide valid measures of crime and the criminal justice process to government and the citizens of California.” (<https://www.oag.ca.gov/crime>) DOJ’s Criminal

Justice Statistics Center (CJSC) collects, analyzes, and develops statistical reports and information that provide valid measures of crime and the criminal justice process in California, as required by the Penal Code. The goal of the CJSC is to provide accurate, complete, and timely criminal statistical information to the public, local government, criminal justice administrators and planners, the Legislature, the Attorney General, the Governor, state agencies, federal agencies, and criminal justice researchers through a variety of publications and services. To provide these services and publications, the CJSC collects and compiles data from more than 1,000 city, county, and state criminal justice agencies in California.

Currently, the DOJ publishes a yearly report titled *Crime in California*. It “contains the most comprehensive set of data on California crimes, arrests, and criminal justice actions. Crime in California contains information on crimes, arrests, adult felony arrest dispositions, adult corrections, criminal justice expenditures and personnel, citizens' complaints against peace officers, and domestic violence.” (See <https://oag.ca.gov/cjsc/pubs>)

As proposed to be amended in committee, this bill would require DOJ to collect and report data on offenses related to firearms without a valid state or federal serial number. Specifically, DOJ would be charged with reporting the number of arrests for buying, selling, or possessing a firearm with a removed or altered serial number or possessing a firearm without a valid serial number; and the number of arrests for failing to obtain a valid serial number for a manufactured or assembled firearm. The DOJ would also have to report the disposition of arrests for specified offenses related to firearms without a valid serial number, including information about whether an arrestee was booked, cited, or released from custody. This information is not reflected in Crime in California because the offenses are misdemeanors.

Beginning June 1, 2027, the Justice Data Accountability and Transparency Act mandates DOJ to begin collecting data from all state and local prosecutor offices that prosecute misdemeanors and felonies, including district attorney offices, city attorney offices, and the Attorney General’s Office. (Pen. Code, § 13370(d)(3).) DOJ must publish the data by June 1, 2028. (*Ibid.*)

Under the proposed amendments to this bill, the DOJ would have to report data collected pursuant to the Justice Data Accountability and Transparency Act on the disposition of prosecutions for offenses related to firearms without a valid serial number reported to the department. The information must include data on whether charges were dismissed, whether the defendant was acquitted or convicted, or whether the charges were resolved on other grounds, including as a result of plea bargaining.

- 3) **Argument in Support:** According to the *California Police Chiefs Association*, “Gun violence has spiked across the state, homicide rates keep climbing, and officers continue to pull more and more illegal firearms off our streets. In 2021, Los Angeles Police Department cited a 400% increase in ghost gun seizures. Just last month, an East Palo Alto officer was shot and injured by a suspect with a fully automatic ghost gun. Despite this violence, possession of a ghost gun is often only chargeable as a misdemeanor. Given the gravity of issue, and potential harm caused by these illegal weapons, it is important our penalties match the threat. From our standpoint, it is completely clear that our laws are not deterring the massive proliferation of weapons...”

- 4) **Argument in Opposition:** According to the *California Public Defenders Association*, “Adopting a public health approach to the pandemic of guns in our state would be more cost effective and humane. California has reduced smoking by a combination of taxes on cigarettes, bans on smoking in public spaces and education. Such a multi-pronged strategy should be employed to reduce the number of ghost guns in California.

“Also, the Legislature should consider allowing individuals to bring public nuisance lawsuits against individuals and companies who manufacture ghost guns or ghost gun manufacturing equipment. Serious financial penalties are more likely to deter these individuals and their companies than criminal penalties against the unwitting individual who possesses such a weapon.”

- 5) **Related Legislation:** AB 327 (Jones-Sawyer), would require DOJ to complete the transition of all California’s crime statistics reporting so that it is in alignment with federal reporting requirements. AB 327 will be heard in this committee today.
- 6) **Prior Legislation:**
- a) AB 2418 (Kalra), Chapter 787, Statutes of 2022, enacts the Justice Data Accountability and Transparency Act, which, among other things, mandates the CJSC within DOJ to collect “data elements” as specified, from all state and local prosecutor offices that prosecute misdemeanors and felonies, including district attorney offices, city attorney offices, and the Attorney General’s Office.
  - b) AB 1621 (Gipson), Chapter 76, Statutes of 2022, redefines one of the definitions of “firearm” as including a precursor part, redefines “firearm precursor part” and prohibits a person from possessing or manufacturing a firearm precursor part without authorization.
  - c) AB 1688 (Fong), of the 2021-2022 Legislative Session, would have removed the requirement that a firearm be microstamped with an array of characters in order to be listed on the DOJ roster of “not unsafe” handguns approved for sale. The hearing on AB 1688 in this Committee was cancelled at the request of the author.
  - d) AB 2156 (Wicks), Chapter 142, Statutes of 2022, reduces the number firearms that a person, firm, or corporation may manufacture without having a state firearms manufacturing license from 49 to three.
  - e) AB 857 (Cooper), Chapter 60, Statutes of 2016, requires a person to apply to and obtain from the DOJ a unique serial number or other mark of identification prior to manufacturing or assembling a firearm.
  - f) AB 1084 (Melendez), of the 2013-2014 Legislative Session, would have increased the penalties for numerous offenses related to the illegal possession of firearms, and would have required that many related sentences be served in the state prison rather than county jail under realignment. AB 1084 failed passage in this committee.

- g) SB 644 (Canella), of the 2013-2014 Legislative Session, would have, in pertinent part, raised the sentence for a subsequent conviction of possession of a firearm by a convicted felon from a term of 16 months, 2 years or 3 years to a term of 4, 5, or 6 years. SB 644 was held in the Senate Appropriations Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Arcadia Police Officers' Association  
Burbank Police Officers' Association  
California Coalition of School Safety Professionals  
California District Attorneys Association  
California Peace Officers Association  
California Police Chiefs Association  
California School Employees Association  
Chino Police Department  
Claremont Police Officers Association  
Corona Police Officers Association  
Culver City Police Officers' Association  
Fullerton Police Officers' Association  
Inglewood Police Officers Association  
Los Angeles County Sheriff's Department  
Los Angeles School Police Officers Association  
Newport Beach Police Association  
Ontario Police Department  
Orange County District Attorney  
Palos Verdes Police Officers Association  
Placer County Deputy Sheriffs' Association  
Pomona Police Officers' Association  
Riverside Police Officers Association  
Riverside Sheriffs' Association  
Santa Ana Police Officers Association  
Upland Police Officers Association

### **Opposition**

ACLU California Action  
California Attorneys for Criminal Justice  
California Public Defenders Association  
Gun Owners of California, INC.  
National Rifle Association - Institute for Legislative Action  
San Francisco Public Defender

1 Private Individual

**Analysis Prepared by:** Andrew Ironside / PUB. S. / (916) 319-3744