

ASSEMBLY THIRD READING
AB 97 (Rodriguez)
As Amended March 08, 2023
Majority vote

SUMMARY

Requires the Department of Justice (DOJ) to report data on arrests and prosecutions of specified misdemeanor offenses related to unserialized firearms.

Major Provisions

- 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.

COMMENTS

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. (Penal Code, Section 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.

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.

Arguments 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..."

Arguments in Opposition

No longer applicable.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, "DOJ reports it would need \$86,000 in 2023-24 and \$154,000 annually thereafter (General Fund (GF)) to hire one permanent Associate Governmental Program Analyst (AGPA) to analyze the requested data from the Automated Criminal History System and compile the annual report required by this bill."

VOTES

ASM PUBLIC SAFETY: 8-0-0

YES: Jones-Sawyer, Alanis, Bonta, Bryan, Lackey, Ortega, Santiago, Zbur

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Sanchez, Weber, Ortega

ABS, ABST OR NV: Robert Rivas

UPDATED

VERSION: March 08, 2023

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