
THIRD READING

Bill No: AB 97
Author: Rodriguez (D)
Amended: 9/1/23 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/20/23
AYES: Wahab, Ochoa Bogh, Bradford, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Wahab, Wiener
NO VOTE RECORDED: Seyarto

ASSEMBLY FLOOR: 77-0, 5/25/23 - See last page for vote

SUBJECT: Firearms: unserialized firearms

SOURCE: Author

DIGEST: This bill requires the Department of Justice (DOJ) to collect and report data on arrest and prosecutions of specified misdemeanor offenses related to unserialized firearms.

ANALYSIS:

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, commencing January 1, 2024, any person who knowingly possesses any firearm that does not have a valid state or federal serial number or mark of identification is guilty of a misdemeanor. (Pen. Code, § 23920, subd. (b).)

- 3) Requires a person manufacturing or assembling a firearm, prior to manufacturing or assembling that firearm, to apply to the DOJ for a unique serial number or other mark of identification for that firearm, and when that serial number is received, to affix it to the firearm within 10 days of the firearm's manufacture or assembly (Pen. Code, § 29180, subd. (b)(1), (2).)
- 4) Prohibits a person, corporation or firm that is not a federally licensed firearms manufacturer to sell or transfer ownership of a manufactured or assembled firearm under specified circumstances. (Pen. Code, § 29180, subd. (d).)
- 5) Prohibits a person, corporation or firm from knowingly allowing, facilitating, aiding or abetting the manufacture or assembly of a firearm by a person who is prohibited by law from possessing a firearm. (Pen. Code, § 29180, subd. (e).)
- 6) Prohibits a person, corporation or firm from knowingly manufacturing or assembling, or knowingly allowing, facilitating, aiding or abetting the manufacture or assembly of a firearm that is not imprinted with a valid serial number. (Pen. Code, § 29180, subd. (f).)
- 7) Provides that violation of Penal Code §29180 is punishable as a misdemeanor. (Pen. Code, § 29180, subd. (g).)
- 8) Establishes the Justice Data Accountability and Transparency Act (JDATA), which generally requires state and local prosecution offices to collect and transmit data regarding criminal cases to the DOJ, which is required to aggregate, verify and publish the data. (Pen. Code, § 13370, et seq.)
- 9) Declares the intent of the Legislature to create a workable system of criminal justice data transparency whereby law enforcement prosecution agencies will gather complete, accurate, and timely data in a uniform format, and make that data available to the public in a modern, open, electronic format that is machine-readable and readily accessible through an application program interface. (Pen. Code, § 13370, subd. (a)(1).)
- 10) Sets forth a legislative finding that it is an important state interest to implement a data collection, aggregation, and publishing process for criminal prosecutions to promote criminal justice data transparency. This data is comprised of publishable statistics and other data from statewide prosecution offices. (Pen. Code, § 13370, subd. (a)(1).)
- 11) 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).)

- 12) Requires prosecuting agencies, beginning on June 1, 2027, to begin transmitting required data to DOJ. (Pen. Code, § 13370, subd. (d)(2).)
- 13) Requires DOJ, beginning June 1, 2027, to begin collecting data elements from all agencies statewide, as specified. (Pen. Code, § 13370, subd. (d)(3).)
- 14) 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).)
- 15) Provides that it shall be an express exception to any sealing of a case or expungement of a case, whether by court order or by operation of law, or any rule of confidentiality or rule otherwise prohibiting disclosure provided by law that all data shall be provided by the prosecuting agencies to the DOJ. (Pen. Code, § 13370, subd. (d)(4).)
- 16) Specifies which particular data elements must be collected, transmitted and published for each case, and grants the DOJ discretion to resolve ambiguities consistent with the purposes of JDATA, including the development of uniform definitions for the data elements and the determination off the form and format in which data elements shall be captured and transmitted. (Pen. Code, § 13370, subd. (e).)

This bill:

- 1) Requires DOJ to collect and report the following data on arrests made by law enforcement agencies for specified 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 serial number.
 - b) The number of misdemeanor arrests for failing to obtain a valid serial number for a manufactured or assembled firearm and for the unlawful transfer of a manufactured or assembled firearm.
 - c) Until January 1, 2029, the disposition of violations of the above prohibitions, including, without limitation, the number of cases resulting in each of the following dispositions:

- i) An arrest was made, but no charges were filed by the district attorney or other prosecuting agency.
 - ii) The case was dismissed after charging, either by the court or the district attorney.
 - iii) The defendant was acquitted.
 - iv) The defendant was convicted, whether by trial or plea.
- d) Commencing on January 1, 2029 to collect and report the disposition of violations above based on information reported to the DOJ pursuant to JDATA, including, without limitation, the number of cases resulting in each of the following dispositions:
- i) An arrest was made, but the arresting law enforcement agency did not submit charges to the district attorney or other prosecuting agency.
 - ii) An arrest was made, but no charges were filed by the district attorney or other prosecuting agency.
 - iii) The case was dismissed after charging, either by the court or the district attorney.
 - iv) The defendant was acquitted by trial.
 - v) The defendant was convicted by plea.
 - vi) The defendant was convicted by trial
- 2) Requires DOJ to issue a report that includes the data collected pursuant to the above provisions, commencing on July 1, 2025, and annually thereafter.
- 3) Provides that its provisions shall sunset on January 1, 2033.

Background

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

allow criminal to avoid 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.

Comments

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. 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.

California has long been a national leader on criminal justice reform and innovation, but only in the last several years has the state refocused its attention to aggregating and publishing crime data for the purposes of self-assessment and transparency. Recent efforts to modernize statewide systems of data collection and representation began in earnest with the DOJ's creation of the OpenJustice portal in 2015, and the Legislature's passage of the OpenJustice Data Act of 2016 (AB 2524 (Irwin, Chapter 418, Statutes of 2016)). These reforms leveraged statistical data maintained by the DOJ and other public datasets to create a dynamic, user-friendly dashboard that presented crime statistics in a more digestible format. In 2022, the Legislature passed AB 2418 (Kalra, Chapter 787, Statutes of 2022), also known as the Justice Data Accountability and Transparency Act (JDATA), which created a new framework for data collection and reporting by California's criminal prosecution agencies. Under that measure, prosecuting agencies statewide are

required to collect and report over 50 distinct data elements for each criminal case that is initiated, which the DOJ will aggregate and publish by 2028.

This bill builds on California's recent efforts to enhance data collection and reporting. This bill requires DOJ to collect and report data on offenses related to firearms without a valid state or federal serial number, specifically, 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.

Additionally, the DOJ would be required to report data collected and reported by local prosecuting agencies pursuant to JDATA on the disposition of prosecutions for offenses related to unserialized firearms. 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, "The DOJ reports costs of approximately \$86,000 in 2023-24 and \$150,000 annually thereafter in additional staff resources to order to analyze the data specified in the bill in the Automated Criminal History System, aggregate, and compile the report to the Legislature (General Fund)."

SUPPORT: (Verified 9/1/23)

Arcadia Peace Officers Association
Burbank Peace Officers Association
California Federation of Teachers
California Reserve Peace Officers Association
California School Employees Association
Chino Police Department
City of Alameda
Claremont Peace Officers Association
Corona Peace Officers Association
Culver City Peace Officers Association
Deputy Sheriffs Association of Monterey County
Fullerton Peace Officers Association

Los Angeles County District Attorneys Office
Los Angeles County Professional Peace Officers Association
Murrieta Police Officers Association
Newport Beach Police Association
Novato Police Officers Association
Ontario Police Department
Palos Verdes Peace Officers Association
Placer County Deputy Sheriffs Association
Pomona Peace Officers Association
Riverside Police Officers Association
Riverside Sheriffs Association
San Bernardino County Sheriffs Association
Santa Ana Peace Officers Association
Upland Peace Officers Association

OPPOSITION: (Verified 9/1/23)

Gun Owners of California, Inc.

ASSEMBLY FLOOR: 77-0, 5/25/23

AYES: Addis, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wilson, Wood, Zbur, Rendon

NO VOTE RECORDED: Aguiar-Curry, Mathis, Joe Patterson

Prepared by: Alex Barnett / PUB. S. /
9/2/23 14:57:31

**** END ****