

GENERAL OFFICE MEMORANDUM 20-141

TO: ALL DISTRICT ATTORNEY PERSONNEL

FROM:  JOSEPH P. ESPOSITO  
Chief Deputy District Attorney

SUBJECT: NEW FIREARM LAWS (PENAL CODE §§ 18205, 29800, 29805, 30515, 30685, AND 32000)

DATE: OCTOBER 15, 2020

**Senate Bill 723: Firearm Prohibition with an Outstanding Warrant**

Penal Code (PC) §§ 29800(a)(1) and 29805(a) prohibit a person from owning or possessing a firearm if the person has an outstanding warrant for a felony or specified misdemeanor. PC § 29851, which required a person to have knowledge of the outstanding warrant for the firearm prohibition to apply, has been repealed and its language incorporated into the amended statutes discussed here. Effective January 1, 2021, Senate Bill 723 (SB 723) amends the crimes of possession of a firearm by a prohibited person as follows:

- PC § 29800(a)(1) eliminates reference to an outstanding warrant but continues to prohibit a person from owning or possessing a firearm who has a prior felony conviction.
- PC § 29800(a) adds subdivision (a)(3) both prohibiting a person from owning or possessing a firearm if that person has an outstanding warrant and requiring the person to have *knowledge* of the warrant.
- PC § 29805(a) is renumbered as subdivision (a)(1) and eliminates reference to an outstanding warrant but continues to prohibit a person from owning or possessing a firearm who has a specified misdemeanor conviction.
- PC § 29805(a) adds subdivision (a)(2) both prohibiting a person from owning or possessing a firearm if that person has an outstanding warrant and requiring the person to have *knowledge* of the warrant.

This General Office Memorandum (GOM) also modifies GOM 17-114 by clarifying the *knowledge* aspect of the outstanding warrant as a necessary element to prove the violation.

**Senate Bill 118: Definition and Registration of an Assault Weapon**

PC § 30515(a) defines what constitutes an assault weapon under the “characteristics” features. Effective on August 6, 2020, Senate Bill 118 (SB 118) expanded the definition of an assault weapon to include a semiautomatic centerfire firearm that is not a rifle, pistol, or shotgun with the following characteristics:

- PC § 30515(a) added subdivision (9) without a fixed magazine with a specified attribute.
- PC § 30515(a) added subdivision (10) with a fixed magazine and the capacity to accept more than 10 rounds.
- PC § 30515(a) added subdivision (11) with a fixed magazine and an overall length of less than 30 inches.

**SB 118: Possession of an Assault Weapon Exception**

PC § 30605(a) prohibits the possession of an assault weapon. Effective August 6, 2020, SB 118 added the following exception to prohibiting the possession of an assault weapon listed in PC § 30515(a)(9)-(11):

- PC § 30685 was added to allow a person to possess an assault weapon listed in PC § 30515(a)(9)-(11) if the person would have been eligible to register the weapon, as specified prior to September 1, 2020, lawfully possessed the weapon prior to September 1, 2020, and registers the weapon by January 1, 2022, as specified.

**Assembly Bill No. 2617: Firearm Prohibition with a Gun Violence Restraining Order**

PC § 18205 prohibits a person from possessing a firearm or ammunition with *knowledge* the person is prohibited from doing so by a specified gun violence restraining order. Effective January 1, 2021, Assembly Bill 2617 broadens the application of the crime prohibiting possession of a firearm by a gun violence restraining order as follows:

- PC § 18205 is renumbered as subdivision (a) and adds similar or equivalent *out-of-state* gun violence restraining order as a basis of the offense.

**Assembly Bill No. 2699: Unlawful Sale or Transfer of an Unsafe Firearm**

PC § 32000(a) prohibits the unlawful sale or transfer of an “unsafe” handgun. Effective January 1, 2021, Assembly Bill 2699 amends the crime of unlawful sale or transfer of an “unsafe” handgun as follows:

- PC § 32000(a) is renumbered as subdivision (a)(1).
- PC § 32000(a) adds subdivision (a)(2) imposing a civil penalty up to \$10,000 for violating subdivision (a)(1) in a specified manner.

The Uniform Crime Charging Manual will be updated to reflect the amendments to PC §§ 29800, 29805, and 18205. A new template will be created for PC § 32000(a)(1). The new and updated templates will be available in PIMS on January 1, 2021.

rd