

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 MAY 28 PM 2:24

Date: June 11, 2009

CITY OF OAKLAND

BILL ANALYSIS



Bill Number: AB #1498

Bill Author: Assembly Member De Leon

DEPARTMENT INFORMATION

Contact: Lieutenant Kenneth W. Parris
Department: Police
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RECOMMENDED POSITION: SUPPORT

Summary of the Bill

AB #1498 has two specific goals:

1. Expands the list of targeted individuals who have committed certain gun-related misdemeanors and are prevented from owning a gun for 10 years, curing some of the infirmities in existing prohibited possessor laws.
2. Targets misdemeanor gang offenders and prevents gun ownership for 10 years by individuals who would be likely to commit more serious gun and gang-related crimes in the future.

Under existing law, possession of a handgun is illegal under the following circumstances.

1. Possession of a firearm by a convicted felon. [Penal Code Section 12021(b).];
2. Possession of a firearm by a person who has been convicted of a specified crime of violence charged as a misdemeanor. Prohibition under this statute is for a period of 10 years. [Penal Code Section 12021(c)(1).];
3. Possession of a firearm in a vehicle except under specific circumstances. [Penal Code Section 12025 (a) and (b).]; and
4. Carrying a loaded or concealed weapon in public. [Penal Code Section 12025(a); Penal Code Section 12031(a)(1).]

Passage of this bill would expand the list of misdemeanor offenses for which a person may not possess a firearm for 10 years to include carrying a concealed weapon in a vehicle; carrying a

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loaded firearm; possession of an assault weapon; and any misdemeanor committed for the benefit of a criminal street gang.

Passage of AB #1498 will provide law enforcement and local communities with another tool to address the ever increasing problem of gang violence. Furthermore, it is designed to keep firearms out of the hands of those individuals who have demonstrated a greater likelihood of carrying and potentially using firearms in a criminal act.

The author of AB #1498, Assembly Member Kevin De Leon, has said, "Possessors of illegal and deadly assault weapons should lose their right to own guns. Assault weapons have been used in many high profile cases including Columbine, the shooting at the 101 California Street building in San Francisco, and the mall shootings in Omaha, Nebraska. The Washington D.C. area snipers also used assault weapons. Just last month (March 2009), an assault weapon was involved in the killing of Oakland police officers. California law already bans possession of an assault weapon. Therefore, if an individual possesses a weapon already banned in California, that person should lose the privilege to own any kind of firearm for at least the prescribed 10-year period."

This bill does not limit the rights of law abiding people.

Positive Factors for Oakland

The purpose of AB #1498 is to safeguard California communities against the plague of gang violence and restrict the ability of persons who have demonstrated a propensity for violence or involvement in criminal gang activity from possessing firearms.

Conviction for illegal carrying of a concealed firearm, illegal possession of an assault weapon and certain gang related activities would trigger a 10 year prohibition. If a person abuses his/her right to possess a firearm by doing so illegally, or engages in activity that carries with it a risk of future violence (such as participation in a gang) then the logical consequences would be to lose the right to possess a firearm for a period of time.

Should this bill become law, it will provide the Oakland Police Department with an additional tool to address the problem of increasing criminal gang activity. It will also work to remove firearms from those persons who are prone to violence or who have demonstrated a propensity for violence.

There are no local unfunded mandates in this bill.

Negative Factors for Oakland

None.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

Critical (top priority for City lobbyist, city position required ASAP)

Very Important (priority for City lobbyist, city position necessary)

Somewhat Important (City position desirable if time and resources are available)

Minimal or **None** (do not review with City Council, position not required)

Known support:

California Chapters of the Brady Campaign to Prevent Gun Violence
City of Los Angeles, Mayor Antonio Villaraigosa
Legal Community Against Violence

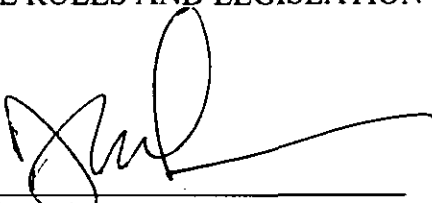
Known Opposition:

California Public Defenders Association
Gun Owners of California
Taxpayers for Improving Public Safety

Attachments:

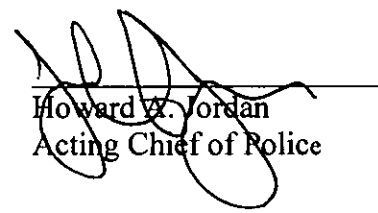
Text of Assembly Bill No. 1498
May 6, 2009 Analysis of AB 1498

APPROVED AND FORWARDED TO
THE RULES AND LEGISLATION COMMITTEE:



Office of City Administrator

Respectfully Submitted,



Howard A. Jordan
Acting Chief of Police

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June 11, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1498

Introduced by Assembly Member De Leon

February 27, 2009

An act to amend Section 12021 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1498, as amended, De Leon. Firearms: possession.

Existing law provides that a person convicted of specified misdemeanor crimes who, within 10 years of the conviction, owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a public offense, which shall be punished as specified.

This bill would additionally include within this provision specified misdemeanor crimes relating to ~~burglary~~, weapons; and to criminal street gang activity. Because this bill would change the punishment of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12021 of the Penal Code is amended to
2 read:

3 12021. (a) (1) Any person who has been convicted of a felony
4 under the laws of the United States, the State of California, or any
5 other state, government, or country or of an offense enumerated
6 in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted
7 to the use of any narcotic drug, and who owns, purchases, receives,
8 or has in his or her possession or under his or her custody or control
9 any firearm is guilty of a felony.

10 (2) Any person who has two or more convictions for violating
11 paragraph (2) of subdivision (a) of Section 417 and who owns,
12 purchases, receives, or has in his or her possession or under his or
13 her custody or control any firearm is guilty of a felony.

14 (b) Notwithstanding subdivision (a), any person who has been
15 convicted of a felony or of an offense enumerated in Section
16 12001.6, when that conviction results from certification by the
17 juvenile court for prosecution as an adult in an adult court under
18 Section 707 of the Welfare and Institutions Code, and who owns
19 or has in his or her possession or under his or her custody or control
20 any firearm is guilty of a felony.

21 (c) (1) Except as provided in subdivision (a) or paragraph (2)
22 of this subdivision, any person who has been convicted of a
23 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
24 subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28,
25 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5,
26 273.6, 417, 417.6, 422, ~~459~~, 626.9, 646.9, 12023, or 12024,
27 subdivision (a) of Section 12025, *subdivision (a) of Section 12031*,
28 subdivision (b) or (d) of Section 12034, Section 12040, subdivision
29 (b) of Section 12072, subdivision (a) of former Section 12100,
30 Section 12220, subdivision (b) of Section 12280, Section 12320,
31 or Section 12590 of this code, or Section 8100, 8101, or 8103 of
32 the Welfare and Institutions Code, any firearm-related offense
33 pursuant to Sections 871.5 and 1001.5 of the Welfare and
34 Institutions Code, or of the conduct punished in paragraph (3) of
35 subdivision (g) of Section 12072, or of any misdemeanor for which
36 the defendant was punished pursuant to subdivision (d) of Section
37 186.22, and who, within 10 years of the conviction, owns,
38 purchases, receives, or has in his or her possession or under his or

1 her custody or control, any firearm is guilty of a public offense,
2 which shall be punishable by imprisonment in a county jail not
3 exceeding one year or in the state prison, by a fine not exceeding
4 one thousand dollars (\$1,000), or by both that imprisonment and
5 fine. The court, on forms prescribed by the Department of Justice,
6 shall notify the department of persons subject to this subdivision.
7 However, the prohibition in this paragraph may be reduced,
8 eliminated, or conditioned as provided in paragraph (2) or (3).

9 (2) Any person employed as a peace officer described in Section
10 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment
11 or livelihood is dependent on the ability to legally possess a
12 firearm, who is subject to the prohibition imposed by this
13 subdivision because of a conviction under Section 273.5, 273.6,
14 or 646.9, may petition the court only once for relief from this
15 prohibition. The petition shall be filed with the court in which the
16 petitioner was sentenced. If possible, the matter shall be heard
17 before the same judge who sentenced the petitioner. Upon filing
18 the petition, the clerk of the court shall set the hearing date and
19 shall notify the petitioner and the prosecuting attorney of the date
20 of the hearing. Upon making each of the following findings, the
21 court may reduce or eliminate the prohibition, impose conditions
22 on reduction or elimination of the prohibition, or otherwise grant
23 relief from the prohibition as the court deems appropriate:

24 (A) Finds by a preponderance of the evidence that the petitioner
25 is likely to use a firearm in a safe and lawful manner.

26 (B) Finds that the petitioner is not within a prohibited class as
27 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
28 and the court is not presented with any credible evidence that the
29 petitioner is a person described in Section 8100 or 8103 of the
30 Welfare and Institutions Code.

31 (C) (i) Finds that the petitioner does not have a previous
32 conviction under this subdivision no matter when the prior
33 conviction occurred.

34 (ii) In making its decision, the court shall consider the
35 petitioner's continued employment, the interest of justice, any
36 relevant evidence, and the totality of the circumstances. The court
37 shall require, as a condition of granting relief from the prohibition
38 under this section, that the petitioner agree to participate in
39 counseling as deemed appropriate by the court. Relief from the
40 prohibition shall not relieve any other person or entity from any

1 liability that might otherwise be imposed. It is the intent of the
2 Legislature that courts exercise broad discretion in fashioning
3 appropriate relief under this paragraph in cases in which relief is
4 warranted. However, nothing in this paragraph shall be construed
5 to require courts to grant relief to any particular petitioner. It is
6 the intent of the Legislature to permit persons who were convicted
7 of an offense specified in Section 273.5, 273.6, or 646.9 to seek
8 relief from the prohibition imposed by this subdivision.

9 (3) Any person who is subject to the prohibition imposed by
10 this subdivision because of a conviction of an offense prior to that
11 offense being added to paragraph (1) may petition the court only
12 once for relief from this prohibition. The petition shall be filed
13 with the court in which the petitioner was sentenced. If possible,
14 the matter shall be heard before the same judge that sentenced the
15 petitioner. Upon filing the petition, the clerk of the court shall set
16 the hearing date and notify the petitioner and the prosecuting
17 attorney of the date of the hearing. Upon making each of the
18 following findings, the court may reduce or eliminate the
19 prohibition, impose conditions on reduction or elimination of the
20 prohibition, or otherwise grant relief from the prohibition as the
21 court deems appropriate:

22 (A) Finds by a preponderance of the evidence that the petitioner
23 is likely to use a firearm in a safe and lawful manner.

24 (B) Finds that the petitioner is not within a prohibited class as
25 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
26 and the court is not presented with any credible evidence that the
27 petitioner is a person described in Section 8100 or 8103 of the
28 Welfare and Institutions Code.

29 (C) (i) Finds that the petitioner does not have a previous
30 conviction under this subdivision, no matter when the prior
31 conviction occurred.

32 (ii) In making its decision, the court may consider the interest
33 of justice, any relevant evidence, and the totality of the
34 circumstances. It is the intent of the Legislature that courts exercise
35 broad discretion in fashioning appropriate relief under this
36 paragraph in cases in which relief is warranted. However, nothing
37 in this paragraph shall be construed to require courts to grant relief
38 to any particular petitioner.

39 (4) Law enforcement officials who enforce the prohibition
40 specified in this subdivision against a person who has been granted

1 relief pursuant to paragraph (2) or (3) shall be immune from any
2 liability for false arrest arising from the enforcement of this
3 subdivision unless the person has in his or her possession a certified
4 copy of the court order that granted the person relief from the
5 prohibition. This immunity from liability shall not relieve any
6 person or entity from any other liability that might otherwise be
7 imposed.

8 (d) (1) Any person who, as an express condition of probation,
9 is prohibited or restricted from owning, possessing, controlling,
10 receiving, or purchasing a firearm and who owns, purchases,
11 receives, or has in his or her possession or under his or her custody
12 or control, any firearm but who is not subject to subdivision (a) or
13 (c) is guilty of a public offense, which shall be punishable by
14 imprisonment in a county jail not exceeding one year or in the
15 state prison, by a fine not exceeding one thousand dollars (\$1,000),
16 or by both that imprisonment and fine. The court, on forms
17 provided by the Department of Justice, shall notify the department
18 of persons subject to this subdivision. The notice shall include a
19 copy of the order of probation and a copy of any minute order or
20 abstract reflecting the order and conditions of probation.

21 (2) For any person who is subject to subdivision (a), (b), or (c),
22 the court shall, at the time judgment is imposed, provide on a form
23 supplied by the Department of Justice, a notice to the defendant
24 prohibited by this section from owning, purchasing, receiving,
25 possessing or having under his or her custody or control, any
26 firearm. The notice shall inform the defendant of the prohibition
27 regarding firearms and include a form to facilitate the transfer of
28 firearms. Failure to provide the notice shall not be a defense to a
29 violation of this section.

30 (e) Any person who (1) is alleged to have committed an offense
31 listed in subdivision (b) of Section 707 of the Welfare and
32 Institutions Code, an offense described in subdivision (b) of Section
33 1203.073, any offense enumerated in paragraph (1) of subdivision
34 (c), or any offense described in subdivision (a) of Section 12025,
35 subdivision (a) of Section 12031, or subdivision (a) of Section
36 12034, and (2) is subsequently adjudged a ward of the juvenile
37 court within the meaning of Section 602 of the Welfare and
38 Institutions Code because the person committed an offense listed
39 in subdivision (b) of Section 707 of the Welfare and Institutions
40 Code, an offense described in subdivision (b) of Section 1203.073,

1 any offense enumerated in paragraph (1) of subdivision (c), or any
2 offense described in subdivision (a) of Section 12025, subdivision
3 (a) of Section 12031, or subdivision (a) of Section 12034, shall
4 not own, or have in his or her possession or under his or her
5 custody or control, any firearm until the age of 30 years. A
6 violation of this subdivision shall be punishable by imprisonment
7 in a county jail not exceeding one year or in the state prison, by a
8 fine not exceeding one thousand dollars (\$1,000), or by both that
9 imprisonment and fine. The juvenile court, on forms prescribed
10 by the Department of Justice, shall notify the department of persons
11 subject to this subdivision. Notwithstanding any other law, the
12 forms required to be submitted to the department pursuant to this
13 subdivision may be used to determine eligibility to acquire a
14 firearm.

15 (f) Subdivision (a) shall not apply to a person who has been
16 convicted of a felony under the laws of the United States unless
17 either of the following criteria is satisfied:

18 (1) Conviction of a like offense under California law can only
19 result in imposition of felony punishment.

20 (2) The defendant was sentenced to a federal correctional facility
21 for more than 30 days, or received a fine of more than one thousand
22 dollars (\$1,000), or received both punishments.

23 (g) (1) Every person who purchases or receives, or attempts to
24 purchase or receive, a firearm knowing that he or she is prohibited
25 from doing so by a temporary restraining order or injunction issued
26 pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure,
27 a protective order as defined in Section 6218 of the Family Code,
28 a protective order issued pursuant to Section 136.2 or 646.91 of
29 this code, or a protective order issued pursuant to Section 15657.03
30 of the Welfare and Institutions Code, is guilty of a public offense,
31 which shall be punishable by imprisonment in a county jail not
32 exceeding one year or in the state prison, by a fine not exceeding
33 one thousand dollars (\$1,000), or by both that imprisonment and
34 fine.

35 (2) Every person who owns or possesses a firearm knowing that
36 he or she is prohibited from doing so by a temporary restraining
37 order or injunction issued pursuant to Section 527.6 or 527.8 of
38 the Code of Civil Procedure, a protective order as defined in
39 Section 6218 of the Family Code, a protective order issued pursuant
40 to Section 136.2 or 646.91 of this code, or a protective order issued

1 pursuant to Section 15657.03 of the Welfare and Institutions Code,
2 is guilty of a public offense, which shall be punishable by
3 imprisonment in a county jail not exceeding one year, by a fine
4 not exceeding one thousand dollars (\$1,000), or by both that
5 imprisonment and fine.

6 (3) The Judicial Council shall provide notice on all protective
7 orders that the respondent is prohibited from owning, possessing,
8 purchasing, receiving, or attempting to purchase or receive a
9 firearm while the protective order is in effect. The order shall also
10 state that the firearm shall be relinquished to the local law
11 enforcement agency for that jurisdiction or sold to a licensed gun
12 dealer, and that proof of surrender or sale shall be filed within a
13 specified time of receipt of the order. The order shall state the
14 penalties for a violation of the prohibition. The order shall also
15 state on its face the expiration date for relinquishment.

16 (4) If probation is granted upon conviction of a violation of this
17 subdivision, the court shall impose probation consistent with
18 Section 1203.097.

19 (h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is
20 justifiable where all of the following conditions are met:

21 (A) The person found the firearm or took the firearm from a
22 person who was committing a crime against him or her.

23 (B) The person possessed the firearm no longer than was
24 necessary to deliver or transport the firearm to a law enforcement
25 agency for that agency's disposition according to law.

26 (C) If the firearm was transported to a law enforcement agency,
27 it was transported in accordance with paragraph (18) of subdivision
28 (a) of Section 12026.2.

29 (D) If the firearm is being transported to a law enforcement
30 agency, the person transporting the firearm has given prior notice
31 to the law enforcement agency that he or she is transporting the
32 firearm to the law enforcement agency for disposition according
33 to law.

34 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or
35 (e), the trier of fact shall determine whether the defendant was
36 acting within the provisions of the exemption created by this
37 subdivision.

38 (3) The defendant has the burden of proving by a preponderance
39 of the evidence that he or she comes within the provisions of the
40 exemption created by this subdivision.

1 (i) Subject to available funding, the Attorney General, working
2 with the Judicial Council, the California Alliance Against Domestic
3 Violence, prosecutors, and law enforcement, probation, and parole
4 officers, shall develop a protocol for the implementation of the
5 provisions of this section. The protocol shall be designed to
6 facilitate the enforcement of restrictions on firearm ownership,
7 including provisions for giving notice to defendants who are
8 restricted, provisions for informing those defendants of the
9 procedures by which defendants shall dispose of firearms when
10 required to do so, provisions explaining how defendants shall
11 provide proof of the lawful disposition of firearms, and provisions
12 explaining how defendants may obtain possession of seized
13 firearms when legally permitted to do so pursuant to this section
14 or any other provision of law. The protocol shall be completed on
15 or before January 1, 2005.

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

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BILL ANALYSIS

AB 1498

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Date of Hearing: May 6, 2009

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Kevin De Leon, Chair

AB 1498 (De Leon) - As Amended: April 23, 2009

Policy Committee:
SafetyVote: 5-1

Public

Urgency: No
Yes Reimbursable:State Mandated Local Program:
NoSUMMARY

This bill expands the existing list of misdemeanor offenses that prohibit a person from possessing a gun for 10 years to include carrying a concealed weapon in a vehicle, carrying a loaded gun, as specified, possessing an assault weapon, and any misdemeanor committed for the benefit of a criminal street gang, as specified.

(Violation of this prohibition is a wobbler, punishable by up to one year in county jail and/or a fine of up to \$1,000, or by 16 months, 2, or 3 years in state prison.)

FISCAL EFFECT

- 1) Unknown, moderate annual GF costs, potentially in excess of \$200,000, for increased state prison commitments. In 2007 and 2008 combined, 86 persons were committed to state prison under this subdivision. If the base offenses added by this bill results in four additional state prison commitments, which would be almost a 10% increase over each of the past two years, annual GF costs would be almost \$200,000, assuming mid-term sentences of two years with full sentence credits.
- 2) Unknown, moderate annual nonreimbursable local incarceration costs, likely in the hundreds of thousands of dollars.

COMMENTS

- 1) Rationale. According to the author, there are weaknesses in the current prohibited possessor law. Current law specifies that persons convicted of felony or certain misdemeanor

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offenses are prohibited from possessing a gun for 10 years from the date of their conviction. Absent from this list of offenses, however, are two important gun-related misdemeanors: unlawfully carrying a concealed weapon and possessing an assault weapon. Reasonable gun safety regulations dictate that if an individual abuses his right to possess a weapon by doing so illegally, he should lose that right for a period of time.

Moreover, the author contends persons convicted of misdemeanor gang crimes should also lose their right to possess a gun, as a gang enhancement to any misdemeanor is proof of gang affiliation and activity and is reason to prevent that individual from possessing a gun.

2) Support . L.A. Mayor Antonio Villaraigosa states, "In 2008 there were 1626 gunshot victims and of those 1050 were gang-related incidents. Prohibiting ownership, possession, purchase or receipt of firearms would provide safety measures that would lead to a reduction in crimes involving guns in the City of Los Angeles. The City of Los Angeles has made using all means necessary to prevent gun and gang violence one of its top priorities."

3) Opponents, including the Outdoor Sportsmen's Coalition of California (OSCC) and Safari Club International (SCI) contend the offenses added by this bill - unlawfully possessing an assault gun, unlawfully carrying a concealed gun, and committing a misdemeanor for the benefit of a street gang - "are easily, inadvertently violated by persons of goodwill" (OSCC) and "would entrap a great many lawful, well intended, but unwitting people." (SCI)

4) Current law :

- a) Makes it a felony, punishable by 16 months, 2, or 3 years in state prison, for any person convicted of a felony, or who is addicted to the use of any narcotic drug, to own or possess a gun.
- b) Makes it a wobbler, punishable by up to 1 year in county jail and/or a fine of up to \$1,000, or by 16 months, 2, or 3 years in state prison, for any person who has been convicted of specified misdemeanors, and who, within 10 years of conviction, owns or possesses a gun.

□

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- c) Requires DOJ to establish and maintain the Prohibited

Armed Persons File, an online database for cross-referencing persons who fall within the class of persons prohibited from owning or possessing a gun.

5)DOJ's Prohibited Armed Persons File was created in 2001 (SB 950, Brulte) to ensure prohibited persons do not possess guns. To enforce laws prohibiting certain offenders from possessing guns, DOJ developed the Armed Prohibited Persons System (APPS) to track handgun and assault weapon owners who pose a threat to public safety. APPS maintains information about persons who have been, or will become, prohibited from possessing a firearm subsequent to the legal acquisition or registration of a firearm or an assault weapon. It also provides authorized law enforcement agencies with inquiry capabilities to determine the prohibition status of a person of interest.

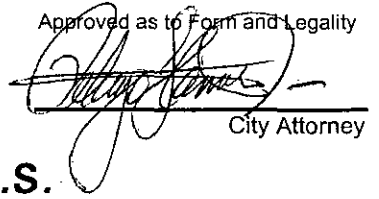
6)Related legislation , AB 814 (Krekorian), pending on this committee's Suspense File, establishes relinquishment procedures for a person in a prohibited class.

Analysis Prepared by : Geoff Long / APPR. / (916) 319-2081

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

2009 MAY 28 ~~RESOLUTION~~ RESOLUTION No. _____ C.M.S.

RESOLUTION IN SUPPORT OF CALIFORNIA STATE ASSEMBLY BILL #1498 (DELEON), WHICH EXPANDS THE LIST OF MISDEMEANOR OFFENSES FOR WHICH A PERSON MAY NOT POSSESS A FIREARM FOR TEN (10) YEARS, INCLUDING MISDEMEANORS COMMITTED IN THE FURTHERANCE OF CRIMINAL STREET GANG ACTIVITY, IN THE STATE OF CALIFORNIA

WHEREAS, it is the desire of the City of Oakland (hereinafter "City") to eliminate violence, especially violence perpetrated by the use of firearms; and

WHEREAS, the City wishes to enhance the Oakland Police Department's (hereinafter "OPD") ability to prosecute criminal gang members and those persons who perpetrate violence in our community; and

WHEREAS, existing law prohibits convicted felons from possessing firearms; and

WHEREAS, existing law prohibits persons convicted of specific violent misdemeanor offenses for possessing firearms for ten (10) years; and

WHEREAS, there are infirmities in the existing prohibited possessor law that fail to address prohibiting persons from possessing firearms for ten (10) years who are convicted of the crimes of carrying a concealed weapon in a vehicle; carrying a loaded firearm in public; possessing an assault weapon; or committing any misdemeanor for the benefit of a criminal street gang; and

WHEREAS, it is recognized that persons who commit these offenses have a high likelihood of being involved in future crimes of violence involving firearms; and

WHEREAS, Assembly Bill #1498 (De Leon) seeks to correct these infirmities in the law; and

WHEREAS, Assembly Bill #1498's statutory changes will prohibit gang members and other firearms related possessor offenders from possessing firearms; now, therefore, be it

RESOLVED: That the City Council expresses its strong support for the passage of Assembly Bill #1498; and be it

FURTHER RESOLVED: That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for the above positions in the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST _____
LaTonda Simmons
City Clerk and Clerk of the Council,
City of Oakland, California