California Department of Justice
DIVISION OF LAW ENFORCEMENT
George B. Anderson, Director

INFORMATION BULLETIN

Subject:

PROHIBITED PERSONS NOTICE AND POWER OF ATTORNEY FOR FIREARMS RELINQUISHMENT, SALE OR DISPOSAL

No. 2007-BOF-05

Date: 12/10/07

Contact for information:
Bureau of Firearms
(916) 263-4887

TO: ALL SUPERIOR/MUNICIPAL/JUVENILE COURTS, MENTAL HEALTH FACILITIES, AND FIREARMS DEALERS

The purpose of this information bulletin is to advise California state courts, mental health facilities, and firearms dealers that the ***Prohibited Persons Notice Form and Power of Attorney for Firearms Transfer and Disposal (FD 110 11/01)*** has been revised and re-titled ***Prohibited Persons Notice and Power of Attorney for Firearms Relinquishment, Sale or Disposal (BOF 110 11/07)***. The new title and wording of the form are intended to avoid any possible confusion regarding the purpose of the Power of Attorney form. Specifically, the form is intended to help the person prohibited from possessing firearms comply with state law to relinquish his or her firearm(s) without possessing the firearms(s) by designating another person to relinquish, sell or dispose of the firearm(s) on his or her behalf. However, the Power of Attorney form does not transfer ownership of the firearm(s) or confer any rights or privileges other than the right to temporarily possess firearms for the purpose of relinquishment, sale or disposal of those firearms.

Effective immediately, please discontinue using the old form and discard all unused copies. For your convenience, a copy of the revised form is enclosed for you to copy as needed. Additionally, the form can also be downloaded directly from the Bureau of Firearms website http://ag.ca.gov/firearms/forms/pdf/sb950frm.pdf.

As a reminder, the Prohibited Persons Notice and Power of Attorney for Firearms Relinquishment, Sale or Disposal form must be provided or made available as follows:

California State Courts are required to provide persons with the form immediately following their conviction for any offense that results in the person being prohibited from possessing firearms. (Pen. Code, § 12021, subd. (d).)

California Firearm Dealers are required to make the form available to persons whose attempted firearm purchase/transfer (e.g., DROS application) resulted in a DOJ denial/cancellation. The form does not apply to those purchasers/transferees whose DROS are rejected due to an invalid California driver license or identification card. (Pen. Code, § 12071.)

California Public/Private Mental Health Facilities are encouraged to provide the form upon the release of persons who were involuntarily admitted to a facility and assessed to be a danger to self or others as described in Welfare and Institutions Code Section 8103(f)(1).

If you have any questions regarding this information, please call the Bureau of Firearms at (916) 263-4887.

Sincerely,

WILFREDO CID, Chief
Bureau of Firearms

For EDMUND G. BROWN JR.
Attorney General

Enclosure(s)

California Department of Justice
Bureau of Firearms

Power of Attorney for Firearms Relinquishment, Sale or Disposal - Declaration

(See Instructions/Guidelines for completing on reverse side)

I, _____, hereby designate _____
(Printed Name of Firearm Owner) *(Printed Name of Power of Attorney Designee)*
to have Power of Attorney for the purpose of transferring or disposing of my firearm(s). This Power of Attorney designation is only effective for 30 days from the date of this designation. This designation shall become null and void after 30 days. As the firearm owner, I hereby declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that to the best of my knowledge, the above designee is not prohibited from possessing firearms pursuant to Penal Code Sections 12021 or 12021.1, or Welfare and Institutions Code Sections 8100 or 8103. I also understand that during my prohibition period, I cannot possess or have access to my firearms, or any other firearms.

_____ Date:_____
Signature of Firearm Owner/Possessor

I,_____, hereby agree to accept appointment as Power of Attorney for
(Printed Name of Power of Attorney Designee)
the sole purpose of transferring or disposing firearms on behalf of _____, the
(Printed Name of Firearm Owner/Possessor)
owner or possessor of the firearm(s). I understand that it is my legal responsibility to carry out one of the actions listed on the reverse of this form. I declare, under penalty of perjury under the laws of the State of California, after reviewing the included list of prohibitions, that I am not prohibited by law from possessing firearms.

_____ Date: _____
Signature of Power of Attorney Designee

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

(Must be notarized by a person who is not a party to this transaction)

In the state of California, county of _____, on _____
(Date)
before me, _____, the following individuals personally appeared:
(Printed Name and Title of Officer (e.g.,, "Jane Doe, Notary Public")

_____ _____
(Printed Name of Firearm Owner/Possessor) *(Printed Name of Power of Attorney Designee)*

I declare that these individuals are personally known to me – OR – proved to me on the basis of satisfactory evidence of identity to be the persons whose names are subscribed to within the instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

(Official Seal of Notary)

_____
(Signature of Notary)

Questions concerning prohibited persons legal status or questions pertaining to use of this form may be directed to the Department of Justice Bureau of Firearms at (916) 263-4887.

BOF 110 (Rev. 11/07)

Instructions/Guidelines

Prohibited Persons Notice Form and Power of Attorney for Firearms Relinquishment, Sale or Disposal (Penal Code Section 12021, subd. (d)(2))

Any person who has been convicted of a felony, a specified misdemeanor, or a specified firearms offense; who is addicted to narcotics; who is the subject of a protective order; or who has been found by a court or mental facility to have certain mental disabilities is prohibited by California law from possessing firearms. Please refer to the accompanying document entitled "Firearms Prohibiting Categories" for a list of firearms prohibitions.

Note: The duration of prohibitions vary. Also, federal law may impose additional and/or more restrictive prohibitions on firearms possession. Therefore, a person who is entitled to possess firearms under state law may nevertheless be prohibited from possessing firearms under federal law. For specific legal advice about the duration of a state prohibition, whether a state prohibition is still in effect, or whether federal law prohibits the possession of firearms, please consult with an attorney who is licensed to practice law in the State of California.

The prohibition against firearms possession is effective immediately upon the occurrence of the prohibiting event (such as the date of the conviction, or the date when a protective order is issued) and requires the person who is prohibited from possessing firearms to immediately relinquish all firearms. This form helps the person who is prohibited from possessing firearms comply with the law by designating another person to relinquish, sell or dispose of the firearms on behalf of the prohibited person. <u>However, this form does not transfer ownership of the firearm(s), or confer any rights or privileges other than the right to temporarily possess firearms for the purpose of relinquishment, sale or disposal of those firearms.</u> Both the owner of the firearm(s) and the person who is granted Power of Attorney for Firearms Relinquishment, Sale or Disposal are obligated to comply with state law regarding the sale and transfer of firearms, such as the requirement to transfer ownership of firearms through a licensed firearms dealer. (See Pen. Code, § 12070, subd. (a), et seq.)

A person who is subject to a **protective order** (as defined in Family Code Section 6218) is subject to special rules. Such a person must do <u>both</u> of the following:

1) **Within 24** hours of being served with notice of the protective order, surrender all firearms to the control of local law enforcement officials, or sell the firearm(s) to a licensed gun dealer; but **Immediately** surrender the firearm(s) to a law enforcement officer upon an officer's request. (Fam. Code, § 6389, subd. (c)(2).)
2) **Within 48 hours** of receiving the order, provide proof to the court that issued the order that all firearms have been relinquished.

Note: A person who has Power of Attorney for Firearms Relinquishment, Sale or Disposal in a case where a protective order is issued must surrender the firearms to the control of local law enforcement officials, or sell the firearms to a licensed gun dealer on behalf of the gun owner within the times set forth above so that the gun owner is able to comply with the law.

In other cases (that do not involve a protective order or a more specific court order), the person with Power of Attorney for Firearms Relinquishment, Sale or Disposal must do one of the following **within 30 days**:

1) Take the firearm(s) to a licensed firearms dealer so that it can be sold or transferred;
2) Surrender the firearm(s) to a California law enforcement agency for the purpose of safekeeping.
3) Surrender the firearm(s) to a California law enforcement agency for the purpose of destruction.
4) **<u>Under no circumstances does completion of this form allow the designee to possess the firearm(s) beyond the 30 day period. (Pen. Code, § 12078, subd. (d)(1).)</u>**

Special rules apply to assault weapons (as defined in Penal Code Sections 12276 and 12276.1; and in DOJ regulations) and .50 BMG rifles. Please contact the Department of Justice Bureau of Firearms at (916) 263-4887 for more information.

FIREARMS PROHIBITING CATEGORIES

State and federal law make it unlawful for certain persons to own and/or possess firearms, including:

- Any person who is convicted of a felony, or any offense enumerated in Section 12021.1 of the Penal Code
- Any person who is ordered not possess firearms as a condition of probation or other court order
- Any person who is convicted of a misdemeanor listed in Section 12021(c)(1) of the Penal Code (refer to List of Prohibiting Misdemeanors)
- Any person who is adjudged a ward of the juvenile court because he or she committed an offense listed in 707(b) of the Welfare and Institutions Code (WIC), an offense described in Section 1203.073(b), or any offense enumerated in Section 12021(c)(1)
- Any person who is subject to a temporary restraining order or an injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of the Penal Code, or a protective order issued pursuant to WIC Section 15657.03
- Any person who is found by a court to be a danger to himself, herself, or others because of a mental illness
- Any person who is found by a court to be mentally incompetent to stand trial
- Any person who is found by a court to be not guilty by reason of insanity
- Any person who is adjudicated to be a mentally disordered sex offender
- Any person who is placed on a conservatorship because he or she is gravely disabled as a result of a mental disorder, or an impairment by chronic alcoholism
- Any person who communicates a threat to a licensed psychotherapist against a reasonably identifiable victim, that has been reported by the psychotherapist to law enforcement
- Any person who is taken into custody as a danger to self or others under WIC Section 5150, assessed under WIC Section 5151, and admitted to a mental health facility under WIC Sections 5151, 5152, or certified under WIC Sections 5250, 5260, and 5270.15
- Any person who is addicted to the use of narcotics (state and federal)
- Any person who is under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year (federal)
- Any person who has been discharged from the military under dishonorable conditions (federal)
- Any person who is an illegal alien (federal)
- Any person who has renounced his or her US Citizenship (federal)
- Any person who is a fugitive from justice (federal)

LIST OF PROHIBITING MISDEMEANORS

Firearm prohibitions for misdemeanor violations of the offenses listed below are generally for ten years from the date of conviction, but the duration of each prohibition may vary. All statutory references are to the California Penal Code, unless otherwise indicated.

- Threatening public officers, employees, and school officials (§ 71.)
- Threatening certain public officers, appointees, judges, staff or their families with the intent and apparent ability to carry out the threat (§ 76.)
- Intimidating witnesses or victims (§ 136.1.)
- Possessing a deadly weapon with the intent to intimidate a witness (§ 136.5.)
- Threatening witnesses, victims, or informants (§ 140.)
- Attempting to remove or take a firearm from the person or immediate presence of a public or peace officer (§ 148(d).)
- Unauthorized possession of a weapon in a courtroom. Courthouse, or court building, or at a public meeting (§ 171(b).)
- Bringing into or possessing a loaded firearm within the state capitol, legislative offices, etc. (§ 171(c).)
- Taking into or possessing loaded firearms within the Governor's Mansion or residence of other constitutional officers (§ 171(d).)
- Supplying, selling or giving possession of a firearm to a person for participation in criminal street gangs (§ 186.28.)
- Assault (§§ 240, 241.)
- Battery (§§ 242, 243.)
- Assault with a stun gun or taser weapon (§ 244.5.)
- Assault with a deadly weapon other than a firearm, or with force likely to produce great bodily injury (§ 245.)
- Assault with a deadly weapon or instrument; by any means likely to produce great bodily injury or with a stun gun or taser on a school employee engaged in performance of duties (§ 245.5 .)
- Discharging a firearm in a grossly negligent manner (§ 246.3.)
- Shooting at an unoccupied aircraft, motor vehicle, or uninhabited building or dwelling house (§ 247.)
- Inflicting corporal injury on a spouse or significant other (§ 273.5.)*
- Wilfully violating a domestic protective order (§ 273.6.)
- Drawing, exhibiting, or using deadly weapon other than a firearm (§ 417(a)(1) and (a)(2).)
- Inflicting serious bodily injury as a result of brandishing (§ 417.6.)
- Making threats to commit a crime which will result in death or great bodily injury to another person (§ 422.)
- Bringing into or possessing firearms upon or within public schools and grounds (§ 626.9.)
- Stalking (§ 646.9.)
- Armed criminal action (§ 12023.)
- Possessing a deadly weapon with intent to commit an assault (§ 12024.)
- Driver of any vehicle who knowingly permits another person to discharge a firearm from the vehicle or any person who willfully and maliciously discharges a firearm from a motor vehicle (§ 12034(b) or (d).)
- Criminal possession of a firearm (§ 12040.)
- Firearms dealer who sells, transfers or gives possession of any firearm to a minor or a handgun to a person under 21 (§ 12072(b).)
- Various violations involving sales and transfers of firearms (§ 12072(g)(3).)
- Person or corporation who sells any concealable firearm to any minor (former § 12100(a).)
- Unauthorized possession/transportation of a machine gun (§ 12220.)
- Possession of ammunition designed to penetrate metal or armor (§ 12320.)
- Carrying a concealed or loaded firearm or other deadly weapon or wearing a peace officer uniform while picketing (§ 12590.)
- Bringing firearm related contraband into juvenile hall (§ 871.5 WIC.)
- Bringing firearm related contraband into a youth authority institution (§ 1001.5 WIC.)
- Purchase, possession, or receipt of a firearm or deadly weapon by a person receiving in-patient treatment for a mental disorder, or by a person who has communicated to a licensed psychotherapist a serious threat of physical violence against an identifiable victim (§ 8100 WIC.)
- Providing a firearm or deadly weapon to a person described in WIC 8100 or 8103 (§ 8101 WIC.)
- Purchase, possession, or receipt of a firearm or deadly weapon by a person who has been adjudicated to be a mentally disordered sex offender or found to be mentally incompetent to stand trial, or not guilty by reason of insanity, and individuals placed under conservatorship (§ 8103 WIC.)

The following misdemeanor convictions result in a lifetime prohibition:

- Assault with a firearm (§§ 12021(a)(1), 12001.6(a).)
- Shooting at an inhabited or occupied dwelling house, building, vehicle, aircraft, housecar or camper (§§ 246, 12021(a)(1), 12001.6(b).)
- Brandishing a firearm in presence of a peace officer (§§ 417(c), 12001.6(d), 12021(a)(1).)
- Two or more convictions of 417(a)(2) (§ 12021(a)(2).)

* A "misdemeanor crime of domestic violence" (§§ 18 U.S.C. 921(a)(33)(A), 18 U.S.C. 922(g)(9).)

Note: The Department of Justice provides this document for informational purposes only. This list may not be inclusive of all firearms prohibitions. For specific legal advice, please consult with an attorney licensed to practice law in California.