

California Department of Justice
FIREARMS DIVISION
Randy Rossi, Director

INFORMATION BULLETIN

Subject: Prohibited Persons Notice Form and Power of Attorney for Firearms Transfer and Disposal
Penal Code Section 12021(d)(2)

No.: 2001 FD 06

Date: 12/13/01

For further information contact:
Firearms Division
(916) 227-3703

TO: All Superior/Municipal/Juvenile Courts
Mental Health Facilities
Firearm Dealers

Effective **January 1, 2002**, Senate Bill 950 (Chapter 944, Statutes of 2001) establishes a provision to provide a person legally prohibited from owning/possessing firearms with a notification form. The intent of the notification form is to ensure that persons who become firearms prohibited are promptly notified to immediately transfer or dispose of any illegally owned/possessed firearms. Failure of prohibited persons to divest themselves of any and all firearms could result in criminal sanctions.

Pursuant to Penal Code (PC) Sections 12021(a)(b) and (c) persons are deemed firearms prohibited if they are within any one of the categories as follows:

- Convicted of a felony;
 - Addicted to the use of narcotics;
 - Certified by a juvenile court for prosecution as an adult in an adult court pursuant to Section 707 of the Welfare and Institutions Code (WIC);
 - Convicted of a misdemeanor enumerated in PC Sections 12001.6 and 12021(c)(1)
 - Admitted to a mental health facility pursuant to 8100, and 8103 WIC;
- OR:
- Any Federal prohibition pursuant to Title 18 USC Chapter 44, Section 922(g);
 - Subject to a protective/restraining order pursuant to Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to PC Section 12021(g)(1) and 527.6 or 527.8 of the Civil Code of Procedure.

Pursuant to PC Section 12021(d)(2) the Department of Justice (DOJ) has developed and prescribed a form for the purpose of providing the above mentioned notification form: ***Prohibited Persons Notice Form and Power of Attorney for Firearms Transfer and Disposal (FD 110 11/01)***. A copy of the notification form is included in this bulletin for your reference. You may copy this form as needed. Additionally, this form is available at the DOJ Firearms Division web site <http://ag.ca.gov/firearms/>. A supply of "no carbon required" (NCR) notification forms will be provided to you in 4 - 6 weeks. The prohibited firearm owner shall retain the original and the power of attorney designee shall retain a copy. The notification form must be provided or made available as follows:

California State Courts are required to provide persons with the notification form immediately following their conviction for any firearm's disqualifying determination/event pursuant to PC Sections 12021 and 12021.1 and Welfare and Institutions Codes (WIC) 8100 through 8105.

California Firearm Dealers shall make the notification form available to persons whose attempted firearm's purchase/transfer (e.g., Dealer's Record of Sale (DROS) application) has resulted in a DOJ required cancellation/denial.

The notification form does not apply to those purchasers/transferees whose DROS are rejected due to an invalid California driver license or identification card.

Upon DOJ inspection dealers will be required to demonstrate that copies of the notification form are available for the purpose of providing it to persons in the event of a DOJ cancelled/denied DROS.

California Public/Private Mental Health Facilities are encouraged to provide the notification form to those persons, upon their release, who were admitted to a facility under Section 8103(f)(1) WIC.

Transfer Procedure: The notification form allows a prohibited person to transfer a firearm(s) to a designated person who is not firearms prohibited. For the purpose of this transfer the designee is exempt from the Basic Firearm Safety Certificate requirement. The designee taking temporary possession of the firearm(s) has thirty (30) days from the date the notification form is completed to transfer the firearm(s) in a manner prescribed as follows:

- Sell the firearm to a California licensed firearm dealer;
- Sell or transfer the firearm(s) to another person who is not prohibited from possessing firearms (this transfer must be processed through a California licensed firearm dealer). Such a transfer may be temporary based on agreement of the parties and until such time that a non-lifetime prohibition ends;
- If the prohibition is for 30 days or less, the designee may possess the firearm(s) for the duration or transfer it to a person who is not prohibited from possessing firearms for a period of not more than 30 days;
- If the designee wishes to permanently possess the firearm(s) (beyond 30 days) a Voluntary Firearm Registration form (FD 4542) must be completed;
- Surrender the firearm(s) to a California law enforcement agency for the purpose of destruction.
- If the firearm(s) is an assault weapon as defined under PC Section 12276, 12276.1, or 12276.5 and is registered pursuant to PC Section 12285, the designee must sell it to a DOJ permitted assault weapon dealer or relinquish it to a law enforcement agency. If the firearm(s) is an unregistered assault weapon it must be relinquished to a law enforcement agency.

It is the responsibility of the prohibited person to complete the notification form and have it properly notarized or witnessed in order to transfer the illegally owned/possessed firearm(s) to their designee.

If you have any questions regarding this information please contact the Firearms Division, Firearms Information Services Section at (916) 227-3703.



RANDY ROSSI, Director
Firearms Division

For BILL LOCKYER
Attorney General

**Prohibited Persons Notice Form and
Power of Attorney for Firearms and Disposal
Penal Code Section 12021(d)(2)**

Penal Code (PC) Sections 12021(d)(1) and 12021.1 and Sections 8100 or 8103 of the Welfare and Institutions Code state any person who has been convicted of a felony, certain misdemeanors, certain firearms offenses, who is addicted to narcotics, who is the subject of a domestic violence restraining order, or has been committed to a mental institution pursuant to Welfare and Institutions Code section 8100, may not possess or have under his or her control any firearm. Certain federal statutes impose lifetime and other more restrictive prohibitions on firearm possession. Please refer to the accompanying document entitled "State of California Firearms Prohibiting Categories."

Note: Specific procedures exist to allow persons prohibited from possessing firearms to seek relief from the prohibition pursuant to PC Section 12021 and Welfare & Institutions Code section 8103 (f)(5) and (g)(4). It should be noted that federal firearm prohibitions might be more restrictive than California prohibitions and that in many instances may also require a governor's pardon. If a person is granted relief from prohibition from a California court, the person may still be prohibited under federal law. Persons falling in this category must be granted relief from firearm prohibition by the federal courts before they may again possess firearms in California.

To be effective immediately upon occurrence of the prohibiting event: conviction, restraining order etc., any person who becomes prohibited from possessing firearms under California or federal statutes may not control, possess, or have access to any firearms. Prohibited persons must immediately designate a third party person (who is not prohibited from possessing firearms) to transfer or dispose any and all firearms by completing the Power of Attorney section on the reverse side of this form. **Failure to immediately transfer or dispose of firearms may subject a person to criminal prosecution.** The designated person (identified in the Power of Attorney form) must carry out one of the following actions within 30 days:

- Sell the firearm(s) to a California licensed firearm dealer;
- Sell or transfer the firearm(s) to another person who is not prohibited from possessing firearms (this transfer must be performed through a California licensed firearm dealer). Such a transfer may be temporary based on agreement of the parties and until such time that a non-lifetime prohibition ends;
- If the prohibition is 30 days or less, the designee may possess the firearm for the duration or transfer it to a person who is not prohibited from possessing firearms for a period of no more than 30 days;
- If the designee wishes to permanently possess the firearm(s) (beyond 30 days) a Voluntary Firearm Registration form (FD 4542) must be completed;
- Surrender the firearm(s) to a California law enforcement agency for the purpose of destruction.
- If the firearm(s) is an assault weapon as defined under PC Sections 12276, 12276, or 12276.5, and is registered pursuant to PC Section 12285, the designee must sell it to a licensed assault weapon dealer or relinquish it to a law enforcement agency. To obtain a list of DOJ permitted assault weapon dealers in your area, contact the Firearms Division at (916) 227-3696. If the firearm(s) is an unregistered assault weapon it must be relinquished to a law enforcement agency.

Power of Attorney Declaration For Firearms Transfer and Disposal

Must be notarized or witnessed (with signed affirmation) by a person who is not a party to this transaction.

I _____ hereby designate _____ as my of
Printed Name of Firearm Owner *Printed Name of Designee*

Power of Attorney for the purpose of transferring or disposing of my firearm(s). This Power of Attorney is solely for the purpose of authorizing the above designee to transfer or dispose of my firearm(s) within 30 days from the effective 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 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 section 8100 or 8103 of the Welfare and Institutions Code. I also understand that I cannot at any time during my prohibition period access, have access to, or control firearms. To be effective immediately upon occurrence of the prohibiting event: conviction, restraining order etc.

Signature of Firearm Owner

Date

(must be notarized/witnessed)

As Power of Attorney I hereby accept with full knowledge and understanding my responsibility to carry out one of the actions as indicated on the reverse within 30 days from the effective date of this designation. As Power of Attorney I declare under penalty of perjury and that after reviewing the included list of prohibitions that I am not prohibited from possessing a firearm.

Signature of Power of Attorney

Date

(must be notarized/witnessed)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT (OR WITNESS)

State of _____, County of _____, On _____
Date

before me, _____ personally appeared:

Name, Title of Officer –E.G., “Jane Doe, Notary Public”

Names of Signers

Personally known to me – OR – proved to me on the basis of Satisfactory evidence to be the person(s) whose name(s) is/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.



Seal of Notary

Signature of Notary (or Witness)

Questions concerning prohibited persons legal status or questions pertaining to use of this form may be directed to the Department of Justice Firearms Division at (916) 227-3703.

STATE OF CALIFORNIA FIREARMS PROHIBITING CATEGORIES

Note: The Department of Justice provides this document for informational purposes only. This information may not be inclusive of all firearms prohibitions as a result of subsequent clarifications or changes in law. This publication is not intended to replace an individual's direct inquiry into the current statement of laws or the pursuit of legal counsel.

- 1.) Person convicted of a felony, or any offense enumerated in Section 12021.1 of the Penal Code (PC).
- 2.) Person who is a fugitive from justice (Federal Brady Act, 18 USC 922(n) & 178.11).
- 3.) Person under indictment or court information: includes any court, under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.
- 4.) Person addicted to the use of narcotics pursuant to 12021 PC.
- 5.) Person denied firearm possession as a condition of probation pursuant to Section 12021(d) PC.
- 6.) Juveniles adjudged wards of the juvenile court because they committed a 707(b) Welfare and Institutions Code (WIC) offense, an offense described in Section 1203.073(b) PC or any offense enumerated in 12021(c)(1) PC are prohibited until they reach age 30.
- 7.) Person subject to a protective/restraining order as defined in Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to Section 12021(g)(1) PC & 527.6 or 527.8 of the Civil Code of Procedure.
- 8.) Person found by a court to be mentally incompetent to stand trial, not guilty by reason of insanity or to be a mentally disordered sex offender pursuant to 8103 WIC.
- 9.) Person placed on a conservatorship because they are gravely disabled as a result of a mental disorder or impairment by chronic alcoholism pursuant to 8103 WIC.
- 10.) Person who communicates a threat to a licensed psychotherapist, against a reasonably identifiable victim, and the psychotherapist reports to law enforcement, is subject to a firearms prohibition for 6 months pursuant to 8100(b)(1) WIC.
- 11.) Person taken into custody as a danger to self or others under 5150 WIC, assessed under 5151 WIC, and admitted to a mental health facility under 5151, 5152, or certified under 5250, 5260, and 5270.15 WIC is prohibited from possessing or purchasing or attempting to purchase firearms for 5 years.
- 12.) Person who is a voluntary patient in a mental facility who is determined to be a danger to self or others is prohibited from purchasing or possessing a firearm between admission and discharge.
- 13.) Pursuant to Penal Code (PC) Section 12021(c)(1), any person who has been convicted of a misdemeanor violation for any of the following offenses is prohibited from owning, possessing, or having under his or her custody or control any firearms within 10 years of the conviction:

**STATE OF CALIFORNIA
FIREARMS PROHIBITING CATEGORIES**

-Continued-

- Threatening public officers, employees, school officials (71 PC) and certain public officers, appointees, judges, staff or their immediate families with the intent and apparent ability to carry out the threat (76 PC).
- Intimidating witnesses and victims (136.1 PC), and possessing a deadly weapon with the intent to intimidate a witness (136.5 PC).
- Threatening witnesses, victims, or informants (140 PC).
- Attempting to remove or take a firearm from the person or immediate presence of a public or peace officer (148(d) PC).
- Unauthorized possession of a weapon in a state or local public building, or at a public meeting (171(b) PC).
- Bringing into or possessing a loaded firearm within the state capitol, legislative offices, etc. (171(c) PC).
- Taking into or possessing loaded firearms within the governor's mansion or residence of other constitutional officers, etc. (171(d) PC).
- Supplying, selling or giving possession of a firearm to a person for participation in criminal street gangs (186.28 PC).
- Assault (240 & 241 PC) or Battery (242 & 243 PC).
- Assault with a stun gun or taser (244.5 PC), deadly weapon, or force likely to produce great bodily injury (245 PC) 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 PC).
- Shooting at an inhabited or occupied dwelling (246 PC) or discharging a firearm in a grossly negligent manner (246.3 PC).
- Shooting at an occupied aircraft, motor vehicle, or uninhabited building or dwelling house (247 PC).
- Willful Infliction of corporal injury on a spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child (273.5 PC).
- Intentional and knowing violation of a court order to prevent harassment, disturbing the peace, or threats or acts of violence (Willfully violating a domestic protective/restraining order) (273.6 PC).
- Drawing, exhibiting, or using a deadly weapon other than a firearm, except in self defense (417(1)(2) PC) and draws or exhibits a firearm in the presence of a peace officer (417(2)(c) PC).
- Person who purchases, sells, manufactures, ships, transports, distributes or receives an imitation firearm (417.2 PC).
- Inflicting serious bodily injury by drawing or exhibiting a firearm or deadly weapon (417.6 PC).
- Threatening to commit a crime which will result in death or great bodily injury to another person (422 PC).
- Possessing a firearm in a "school zone", on the grounds of a public or private school (626.9 PC).
- Stalking; willfully, maliciously, and repeated follows or harasses another person (646.9 PC).
- Armed criminal action; carrying a loaded firearm with the intent to commit a felony (12023 PC).
- Possessing a deadly weapon with intent to assault another (12024 PC).
- Driver or owner of a motor vehicle who knowingly permits a firearm in, or discharge from that vehicle (12034 PC).
- Criminal possession of a firearm; in public while masked (12040 PC).
- Prohibited transfers, deliveries, or sales of firearms (12072 PC).
- Unauthorized possession, transportation, manufacture, or sale of a machine gun (12220 PC).
- Possession of ammunition designed to penetrate metal or armor (12320 PC).
- Carrying a concealed or loaded firearm, other deadly weapon, or wearing a peace officer uniform while picketing (12590 PC).
- Bringing or sending contraband into or possession within a juvenile facility or youth authority institution (871.5 & 1001.5 WIC).
- Firearm prohibitions as specified (8100, 8103 & 8101 WIC).