

West's Annotated California Codes

Penal Code (Refs & Annos)

Part 6. Control of Deadly Weapons (Refs & Annos)

Title 2. Weapons Generally (Refs & Annos)

Division 3.2. Gun Violence Restraining Orders (Refs & Annos)

Chapter 4. Gun Violence Restraining Order Issued After Notice and Hearing (Refs & Annos)

West's Ann.Cal.Penal Code § 18175

§ 18175. Evidence to be considered by court;  
burden of petitioner; duration of restraining order

Effective: January 1, 2016

Currentness

(a) In determining whether to issue a gun violence restraining order under this chapter, the court shall consider evidence of the facts identified in paragraph (1) of subdivision (b) of Section 18155 and may consider any other evidence of an increased risk for violence, including, but not limited to, evidence of the facts identified in paragraph (2) of subdivision (b) of Section 18155.

(b) At the hearing, the petitioner shall have the burden of proving, by clear and convincing evidence, that both of the following are true:

(1) The subject of the petition, or a person subject to an ex parte gun violence restraining order, as applicable, poses a significant danger of causing personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm or ammunition.

(2) A gun violence restraining order is necessary to prevent personal injury to the subject of the petition, or the person subject to an ex parte gun violence restraining order, as applicable, or another because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the subject of the petition, or the person subject to an ex parte gun violence restraining order, as applicable.

(c)(1) If the court finds that there is clear and convincing evidence to issue a gun violence restraining order, the court shall issue a gun violence restraining order that prohibits the subject of the petition from having in his or her custody or control, owning, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm or ammunition.

(2) If the court finds that there is not clear and convincing evidence to support the issuance of a gun violence restraining order, the court shall dissolve any temporary emergency or ex parte gun violence restraining order then in effect.

(d) A gun violence restraining order issued under this chapter has a duration of one year, subject to termination by further order of the court at a hearing held pursuant to Section 18185 and renewal by further order of the court pursuant to Section 18190.

### **Credits**

(Added by Stats.2014, c. 872 (A.B.1014), § 3, eff. Jan. 1, 2015, operative Jan. 1, 2016. Amended by Stats.2015, c. 303 (A.B.731), § 414, eff. Jan. 1, 2016.)

### **Editors' Notes**

#### **OPERATIVE EFFECT**

<For operative effect of Division 3.2, see Penal Code § 18122.>

#### **OFFICIAL FORMS**

##### **2017 Electronic Pocket Part Update**

<Mandatory and optional Forms adopted and approved by the Judicial Council are set out in West's California Judicial Council Forms Pamphlet.>

West's Ann. Cal. Penal Code § 18175, CA PENAL § 18175

Current with urgency legislation through Ch. 520 of 2018 Reg.Sess, and all propositions on 2018 ballot.