

MENTAL HEALTH/FIREARMS
WELFARE AND INSTITUTIONS CODE (WIC), PENAL CODE (PC)

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CA CODE SECTION	SECTION PROVIDES (summary/title only)
PC 4011	Any judge may, on affidavit of any person in charge of a city or county custody facility, a District Attorney or oral testimony, remove a prisoner of that city or county custody facility for medical hospitalization where it cannot be provided by such custody facility
PC 4011.6	Person in charge of any jail or juvenile facility or any judge may cause the removal of a prisoner in that jail or juvenile custody facility for evaluation for a mental disorder for 72 hours pursuant to Welfare and Institutions (WIC) Code, section 5150
WIC 5150	When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.
WIC 5150.5	Determination of Probable Cause to take, or cause to take , a person into custody per WIC 5150.
WIC 5150.1	Peace officer transportation of persons to designated facility; prohibited activities (eg refusal to accept) by employees of designated facilities
WIC 5150.2	Detaining peace officers; documentation; disposition procedures and guidelines fro persons not admitted
WIC 5150.3	Alternative services for persons not admitted
WIC 5150.4	Assessments
WIC 5151	Detention for evaluation; individual assessments prior to admission to determine appropriateness of detention
WIC 5152	Evaluation; treatment and care; written and oral effects of medication; release or other disposition (72 hours only). Options for facility: release, refer for care and treatment on voluntary basis, or certify for intensive treatment, or appoint conservator
WIC 5213	Determination that there should be a detention for treatment (post 72 hour hold)
WIC 5250	If detained for 72 hours, can only be certified for an additional 14 days of intensive treatment.
WIC 8100(a)	Prohibition of possession purchase, receipt or attempts re: firearms or other deadly weapons by persons receiving inpatient treatment

	for a mental disorder pursuant to WIC, sections 5150, 5250 or 5300 (72 hour holds). Not applicable upon discharge.
WIC 8100 (b)	<p>Six (6) month prohibition upon report of a threat by a licensed psychotherapist (Tarasoff) to a law enforcement agency, of a [serious threat of physical violence against a reasonably identifiable victim or victims]</p> <ul style="list-style-type: none"> -DOJ must make certain notifications - Person affected may petition court for an order permitting possession <p>The person, however, may own, possess, have custody or control over, or receive or purchase any firearm if a superior court, upon petition of the person, has found, by a preponderance of the evidence, that the person is likely to use firearms or other deadly weapons in a safe and lawful manner.</p>
WIC 8101 (a)	Knowingly supply, sell give or allow possession or control of a [deadly weapon] [not firearm] is a wobbler (1 yr CJ or 16, 2, 3)
WIC 8101 (b)	Knowingly supply, sell give or allow possession or control of a [firearm] is a felony. (2,3 or 4 years)
WIC 8102	<p>Confiscation and custody of firearms or other deadly weapons; procedure for return</p> <p>(a) Once a person has been detained for examination of his/her mental condition or who is described in 8100 or 8103 is found to have a firearm or deadly weapon</p> <p>(b) Upon confiscation, person shall be notified of procedure for return; Upon release, person in charge of facility will notify person for procedure for return of firearm; Upon release, person in charge of facility will notify law enforcement that detainee has been advised re procedure for return of firearm</p> <p>(c) Upon release law enforcement will have 30 days to petition the Court to determine whether the return of the weapon would be likely to endanger that person or others.</p> <p>(d) - (f) further procedures regarding the petition process</p>
WIC 8103(a)	No person who has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or who has been adjudicated to be a MDSO, shall purchase or receive, or attempt to purchase or receive, etc any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness. The Court shall immediately notify DOJ if a certificate is issued.

WIC 8103(b)	<p>(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity certain major delineated felonies (eg murder mayhem, robbery, carjacking, etc) shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.</p> <p>(2) The Court shall immediately notify DOJ of the finding that the person comes under subsection (1)</p>
WIC 8103(c)	<p>(1) No person found consistent with (b)(1) above for crimes not delineated shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon, unless the court of commitment has found that the person has recovered sanity.</p> <p>(2) Court shall notify DOJ of the finding of insanity and subsequently if and when the court determines recovery of sanity.</p>
WIC 8103(d)	<p>(1) No person found mentally incompetent to stand trial (PC 1370, 1370.1) shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon., unless there has been a finding that there has been restoration of such competence to stand trial.</p> <p>(2) Court shall notify DOJ of the finding of incompetence to stand trial and subsequently if and when the court determines recovery of such competence.</p>
WIC 8103(e)	<p>(1) No person who has been placed under a Conservatorship shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon</p> <p>(2) The Court shall notify DOJ of the start/end dates of the Conservatorship</p>
WIC 8103(f) (1)	<p>Upon Admission No person who has been: (A) has been taken into custody (WIC 5150), (B) Assessed within the meaning of WIC 5151, and (C) has been admitted to a designated facility shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase [language here is different than all the others] any firearm for a period of five years after the person is released from the facility. UNLESS the people have not met their burden that the person is not likely to use the firearm in a safe and lawful manner.(8103(f)(6))</p>
WIC 8103(f) (2)	<p>For each person subject to subdivision (f) the facility shall immediately, on the date of admission, submit a report to DOJ, on a prescribed form with the identity of the person and the legal grounds for the admission</p>
WIC 8103(f) (3)	<p>Upon Discharge Prior to, or concurrent with discharge, the facility shall inform a person subject to (f), that he or she is subject to the prohibition for 5 years. They must also advise the person of their appellate rights and provide the appropriate forms.</p>

WIC 8103(f) (4)-(8)	Post Discharge Hearing procedures
WIC 8103(g) (1)	No person who has been certified for [intensive treatment] under 5250, 5260 or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of 5 years. - Anyone released on (g) who remains subject to (e) or (f) is still subject to the relevant firearm prohibitions.
WIC 8103(g) (2)	For each person who has been certified for [intensive treatment] the facility shall immediately submit a form to the DOJ on a prescribed form including information regarding the identification of the person, and the reason that he/she was certified for intensive treatment. - Prior to, or concurrent with discharge, the facility shall inform a person subject to (f), that he or she is subject to the prohibition for 5 years. They must also advise the person of their appellate rights and provide the appropriate forms
WIC 8103(I)	Punishment Any person subject to WIC 8103, who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment in the state prison or in a county jail for not more than one year.
WIC 8104	Maintenance of Records Department of Mental Health shall maintain these records and shall make them available to DOJ
WIC 8105	Exchange of Information
WIC 8105(a)	DOJ shall request the mental health facility to submit the information necessary to identify those who come within WIC 8100(A) in order to carry out its duties with re: firearms, destructive devices and explosives.
WIC 8105(b)	Upon the request of DOJ, each mental health facility shall submit to the Department that information requested pursuant to 8105(a)
WIC 8105(c) (Tarasoff)	Any licensed psychotherapist shall immediately report to local law enforcement the identity of a person subject to WIC 8100(b). The law enforcement agency shall immediately report this person to DOJ.
WIC 8105(d)	All information released pursuant to this Chapter is strictly confidential. It shall be used solely for: 1) Eligibility to acquire a firearm by DOJ 2) Purposes of Court proceedings pursuant to 8100(b) 3) Purposes of determining eligibility to acquire a firearm pursuant to a criminal investigation
PC 12316(b)(1)	Ammunition: No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.