

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: June 30, 2014

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations
Committee

FROM: Gerry F. Miller *Gerry F. Miller* Council File No: 14-0002-S78
Chief Legislative Analyst Assignment No: 14-06-0485

SUBJECT: Resolution (Krekorian - Parks) to support AB 1014

CLA RECOMMENDATION: Adopt the revised Resolution (Krekorian - Parks) to include in the City's 2013 – 2014 State Legislative Program SUPPORT for AB 1014 (Skinner), which would establish a gun violence restraining order, modeled after California's domestic violence restraining order, to provide families and law enforcement with the legal tools necessary to help prevent gun violence.

SUMMARY

On June 20, 2014, a Resolution (Krekorian - Parks) was introduced in support of AB 1014, which would provide families and law enforcement with the legal tools necessary to help prevent gun violence. The Resolution states that after the recent mass shooting at Isla Vista, it came to light that Elliot Rodger, the perpetrator, had been contacted by police after the police were warned by Rodger's family members that they were concerned about his mental well-being. Despite this, no action was taken against him. The Resolution further states that family and friends often see warning signs that someone close to them is in crisis, but that there are few options under current law to prevent their loved ones from obtaining or continuing to have firearms.

The Resolution states that, in an effort to address this, AB 1014 (Skinner) would create a gun violence restraining order, modeled after the domestic violence restraining order, which would temporarily prohibit individuals who may be prone to violence from purchasing or possessing a firearm. The Resolution, therefore, seeks an official position of the City of Los Angeles to support AB 1014 (Skinner), which would create a gun violence restraining order that would place temporary limitations on an individual's access to firearms if there are signs that they may be a danger to themselves or others.

BACKGROUND

Those closest to individuals who may be prone to violence are often the only ones who are able to identify the warning signs. This was the case with the family of Elliot Rodger, the individual responsible for the mass shooting in Isla Vista on May 23, 2014. Rodger's family was so worried about his potential for violence that they called the police to check on him. What Rodger's family did not know was that he had legally purchased three firearms to use in a planned killing spree. Unfortunately, under current law, there was little or nothing that could have been done to remove those firearms from Rodger's possession at that time.

AB 1014 (Skinner) would change that, by enabling family members, close friends, or law enforcement to ask for a Gun Violence Restraining Order against an individual who may commit an act of violence. AB 1014 is modeled on California's Domestic Violence Restraining Order laws, and gives family members and law enforcement agencies a valuable legal tool similar to those now available in Connecticut, Indiana, and Texas for protecting the public and family members from potential gun violence. The bill allows law enforcement to remove weapons from an individual who is deemed at risk for committing gun violence, and establishes a process for obtaining a temporary Gun Violence Restraining Order.

AB 1014 would enable a petitioner to ask the court for a Gun Violence Restraining Order against an individual. The bill requires that a magistrate charged with determining whether grounds for a restraining order exist, to consider the following evidence:

- a threat or act of violence by the subject of the order directed towards another person or himself/herself
- a violation or an unexpired emergency protective order or protective order
- a conviction or any offense listed in Penal Code Section 29805

Further, a magistrate would be authorized to consider the following evidence:

- the reckless use, display, or brandishing of a firearm by the subject of the order
- the history of use, attempted use, or threatened use of physical force against another person
- a prior arrest for a felony offense
- any history of a violation by the subject of any protective orders
- evidence or recent or ongoing abuse of controlled substances or alcohol
- evidence or recent acquisition of firearms or other deadly weapons
- the recency of any of the acts identified, as specified

A restraining order could be issued *ex parte*, without a person subject of the hearing present, or after a Notice and Hearing where a person subject to an order would be able to present evidence against the issuance of such an order. An *ex parte* order could be issued when a magistrate is presented with enough information to determine if there is good cause to issue the order. If the restraining order is issued *ex parte*, law enforcement is required to serve the restraining order on the individual in person, and the subject of the order is entitled to a hearing on the matter no later than 14 days after the order was issued. When a Gun Violence Restraining Order is issued after a Notice and Hearing, it is valid for one year, subject to termination by the court or renewal.

AB 1014 requires anyone who is subject to a Gun Violence Restraining Order to turn over their firearms to law enforcement. A person is also allowed to sell their weapons to a legally operating dealer, or transfer ownership of their firearms to another person. While a person who is subject to a Gun Violence Restraining Order cannot possess or purchase firearms as long as the order is in effect, they regain their right to possess a firearm when the order expires or is revoked by the court.

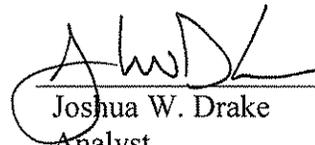
AB 1014 establishes common sense protections against gun violence when people close to an individual see warning signs of potential violence. By establishing a temporary restraining order system prohibiting an individual who may be a risk to themselves or others from purchasing or possessing a firearm, AB 1014 gives family members and law enforcement an important tool to stop gun violence before it starts.

DEPARTMENTS NOTIFIED

Police Department
City Attorney's Office

BILL STATUS

02/22/2013	Bill introduced
05/31/2013	Passed in the Assembly, referred to the Senate
06/13/2013	In the Senate, referred to the Senate Committee on Rules
05/28/2014	Amended and re-referred to the Senate Committee on Rules
06/05/2014	Referred to the Senate Committee on Public Safety
06/11/2014	Amended, re-referred to the Senate Committee on Public Safety



Joshua W. Drake
Analyst

GFM:MF:jwd

Attachment: Resolution (Krekorian - Parks)
Revised Resolution

14-0002-578

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must have been adopted in form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, on May 23, 2014 yet another mass shooting occurred, this time in Isla Vista, California where the perpetrator, 22 year old Elliot Roger, killed seven people and wounded thirteen; and

WHEREAS, according to reports after the shooting, Elliot Roger's family had raised some concerns with law enforcement about his mental state, but no action was taken against him; and

WHEREAS, family members and friends often see the warning signs that someone close to them is in crisis, but they have few options under current law to prevent their loved ones from acquiring or holding onto firearms; and

WHEREAS, the Isla Vista shooting revealed the gaps in our current laws and provided a tragic example of the limited options available to family members and law enforcement; and

WHEREAS, AB 1014, authored by Assembly Members Nancy Skinner and Das Williams and modeled after California's domestic violence restraining order laws, would provide family members, friends, and law enforcement with the tools they need to prevent gun violence; and

WHEREAS, AB 1014 establishes a process for a Gun Violence Restraining Order in order to place temporary limitations on access to firearms when there are warnings signs that a person may harm himself/herself or others; and

WHEREAS, AB 1014 provides due process by allowing judicial review, both at the initial hearing to establish whether someone is at risk of committing acts of violence and at subsequent renewal hearings;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2014-2015 State Legislative Program SUPPORT for AB 1014, which provides families and law enforcement with the legal tools necessary to help prevent gun violence.

PRESENTED BY: Paul Krekorian
PAUL KREKORIAN
Councilmember, 2nd District

SECONDED BY: Bunad C. [Signature]

JUN 20 2014
[Signature]

ORIGINAL

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