



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE SACRAMENTO LEGISLATIVE OFFICE

GEORGE GASCÓN • District Attorney
SHARON L. WOO • Chief Deputy District Attorney
JOSEPH F. INIGUEZ • Chief of Staff

DANIEL FELIZZATTO • Legislative Advocate
TAMAR TOKAT • Legislative Advocate

May 23, 2023

The Honorable Sharon Quirk-Silva
California State Assembly
1021 O Street, Suite 4210
Sacramento, CA 95814

ASSEMBLY BILL 455 (QUIRK-SILVA) SUPPORT

Dear Assembly Member Quirk-Silva:

The Los Angeles County District Attorney's Office is pleased to support Assembly Bill 455.

AB 455 allows the prosecution to request an order from the court that the defendant be prohibited from owning or possessing a firearm until they successfully complete a court ordered mental health diversion program, because they are a danger to themselves or others. Under AB 455 the prosecution bears the burden of proving, by clear and convincing evidence the following are true:

- a) The defendant poses a significant danger of causing personal injury to themselves or another by having in their custody or control, owning, purchasing, possessing, or receiving a firearm; and
- b) The prohibition is necessary to prevent personal injury to the defendant, or any other person, because less restrictive alternatives either have been tried and found to be ineffective, or are inadequate or inappropriate for the circumstances of the defendant.

To be eligible for pretrial mental health diversion, the defendant must suffer from a mental disorder, that played a significant role in the commission of the charged offense, and in the opinion of a qualified mental health expert, the defendant's symptoms motivating the criminal behavior would respond to mental health treatment. The court must also be satisfied that the defendant will not pose an unreasonable risk of danger to public safety if treated in the community.

The lack of a firearm prohibition in our mental health diversion statute is a glaring omission and should be corrected as soon as possible.

It is an all-too-common occurrence that an individual suffering from mental health issues uses a firearm to injure or kill themselves or others. The recent mass murders in Monterey Park and Half Moon Bay this year are examples of the danger firearms pose in the hands of individuals with mental illnesses. Individuals charged with a crime who are eligible for mental health

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diversion should be prohibited from owning or possessing a firearm until they complete their mental health diversion program.

The vast majority of people who suffer from mental illness do not act out violently or commit criminal acts, however an individual who is charged with a felony or specified misdemeanor offense who is eligible for and chooses to participate in a mental health diversion program should also be required to adhere to post-conviction gun restrictions until they have successfully completed their mental health treatment program.

Because a finding that a defendant is not a risk to public safety if treated in the community is a requirement to be eligible for mental health diversion, a court may be more inclined to grant diversion if it could restrict a person's ability to own or possess firearms.

For these reasons our Office is pleased to support AB 455.

If you have any questions or need additional information, please feel free to contact Daniel Felizzatto in my Sacramento Legislative Office at (916) 442-0668.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gascón", written in a cursive style.

GEORGE GASCÓN
District Attorney