

ASSEMBLY BILL

No. 170

Introduced by Assembly Member Maddox

February 5, 2001

An act to amend Sections 3301 and 3304 of the Government Code, relating to public safety officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 170, as introduced, Maddox. Public safety officers.

The Public Safety Officers Procedural Bill of Rights Act generally requires that when any public safety officer is under investigation and subjected to interrogation by his or her commanding officer or employing department that could lead to punitive action, the interrogation shall be conducted pursuant to specified procedures and prohibits punitive action or denial of promotion or the threat of those actions against a public safety officer because of the exercise of rights under the act or the exercise of rights under any administrative grievance procedure.

This bill would include reserve peace officers, as defined, within the definition of public safety officer for the purposes of the act and would provide that no reserve peace officer may be removed or terminated by a public agency or appointing authority without providing the reserve officer with written notice and the reason or reasons therefor and an opportunity for administrative appeal.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3301 of the Government Code is
2 amended to read:

3 3301. For purposes of this chapter, the term public safety
4 officer means all peace officers specified in Sections 830.1, 830.2,
5 830.3, 830.31, 830.32, 830.33, except subdivision (e), 830.34,
6 830.35, except subdivision (c), 830.36, 830.37, 830.38, 830.4, ~~and~~
7 830.5, *and 830.6* of the Penal Code.

8 The Legislature hereby finds and declares that the rights and
9 protections provided to peace officers under this chapter constitute
10 a matter of statewide concern. The Legislature further finds and
11 declares that effective law enforcement depends upon the
12 maintenance of stable employer-employee relations, between
13 public safety employees and their employers. In order to assure
14 that stable relations are continued throughout the state and to
15 further assure that effective services are provided to all people of
16 the state, it is necessary that this chapter be applicable to all public
17 safety officers, as defined in this section, wherever situated within
18 the State of California.

19 SEC. 2. Section 3304 of the Government Code is amended to
20 read:

21 3304. (a) No public safety officer shall be subjected to
22 punitive action, or denied promotion, or be threatened with any
23 such treatment, because of the lawful exercise of the rights granted
24 under this chapter, or the exercise of any rights under any existing
25 administrative grievance procedure.

26 Nothing in this section shall preclude a head of an agency from
27 ordering a public safety officer to cooperate with other agencies
28 involved in criminal investigations. If an officer fails to comply
29 with such an order, the agency may officially charge him or her
30 with insubordination.

31 (b) No punitive action, nor denial of promotion on grounds
32 other than merit, shall be undertaken by any public agency against
33 any public safety officer who has successfully completed the
34 probationary period that may be required by his or her employing
35 agency without providing the public safety officer with an
36 opportunity for administrative appeal.

37 (c) No chief of police may be removed by a public agency, or
38 appointing authority, without providing the chief of police with



1 written notice and the reason or reasons therefor and an
2 opportunity for administrative appeal.

3 For purposes of this subdivision, the removal of a chief of police
4 by a public agency or appointing authority, for the purpose of
5 implementing the goals or policies, or both, of the public agency
6 or appointing authority, for reasons including, but not limited to,
7 incompatibility of management styles or as a result of a change in
8 administration, shall be sufficient to constitute “reason or
9 reasons.”

10 Nothing in this subdivision shall be construed to create a
11 property interest, where one does not exist by rule or law, in the job
12 of Chief of Police.

13 (d) *No reserve peace officer designated in Section 830.6 of the*
14 *Penal Code may be removed or terminated by a public agency or*
15 *an appointing authority without providing the reserve officer with*
16 *written notice and the reason or reasons therefor and an*
17 *opportunity for administrative appeal. Nothing in this subdivision*
18 *shall be construed to create a property interest, where one does not*
19 *otherwise exist by rule or law, for a duly appointed reserve officer.*

20 (e) Except as provided in this subdivision and subdivision ~~(g)~~
21 (h), no punitive action, nor denial of promotion on grounds other
22 than merit, shall be undertaken for any act, omission, or other
23 allegation of misconduct if the investigation of the allegation is not
24 completed within one year of the public agency’s discovery by a
25 person authorized to initiate an investigation of the allegation of
26 an act, omission, or other misconduct. This one-year limitation
27 period shall apply only if the act, omission, or other misconduct
28 occurred on or after January 1, 1998. In the event that the public
29 agency determines that discipline may be taken, it shall complete
30 its investigation and notify the public safety officer of its proposed
31 disciplinary action within that year, except in any of the following
32 circumstances:

33 (1) If the act, omission, or other allegation of misconduct is also
34 the subject of a criminal investigation or criminal prosecution, the
35 time during which the criminal investigation or criminal
36 prosecution is pending shall toll the one-year time period.

37 (2) If the public safety officer waives the one-year time period
38 in writing, the time period shall be tolled for the period of time
39 specified in the written waiver.



1 (3) If the investigation is a multijurisdictional investigation
2 that requires a reasonable extension for coordination of the
3 involved agencies.

4 (4) If the investigation involves more than one employee and
5 requires a reasonable extension.

6 (5) If the investigation involves an employee who is
7 incapacitated or otherwise unavailable.

8 (6) If the investigation involves a matter in civil litigation
9 where the public safety officer is named as a party defendant, the
10 one-year time period shall be tolled while that civil action is
11 pending.

12 (7) If the investigation involves a matter in criminal litigation
13 where the complainant is a criminal defendant, the one-year time
14 period shall be tolled during the period of that defendant's criminal
15 investigation and prosecution.

16 (8) If the investigation involves an allegation of workers'
17 compensation fraud on the part of the public safety officer.

18 ~~(e)~~—

19 (f) Where a predisciplinary response or grievance procedure is
20 required or utilized, the time for this response or procedure shall
21 not be governed or limited by this chapter.

22 ~~(f)~~—

23 (g) If, after investigation and any predisciplinary response or
24 procedure, the public agency decides to impose discipline, the
25 public agency shall notify the public safety officer in writing of its
26 decision to impose discipline, including the date that the discipline
27 will be imposed, within 30 days of its decision, except if the public
28 safety officer is unavailable for discipline.

29 ~~(g)~~—

30 (h) Notwithstanding the one-year time period specified in
31 subdivision (c), an investigation may be reopened against a public
32 safety officer if both of the following circumstances exist:

33 (1) Significant new evidence has been discovered that is likely
34 to affect the outcome of the investigation.

35 (2) One of the following conditions exist:

36 (A) The evidence could not reasonably have been discovered
37 in the normal course of investigation without resorting to
38 extraordinary measures by the agency.

39 (B) The evidence resulted from the public safety officer's
40 predisciplinary response or procedure.



1 ~~(h)~~—
2 *(i)* For those members listed in subdivision (a) of Section 830.2
3 of the Penal Code, the 30-day time period provided for in
4 subdivision ~~(e)~~ *(f)* shall not commence with the service of a
5 preliminary notice of adverse action, should the public agency
6 elect to provide the public safety officer with ~~such a~~ *that* notice.

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