

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2157**

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**Introduced by Assembly Member Logue**

February 18, 2010

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An act to amend Section 830.5 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2157, as amended, Logue. Parole and probation officers: firearms: qualifications.

Existing law designates various persons as peace officers, including parole officers of the Department of Corrections and Rehabilitation or the Department of Juvenile Facilities, probation officers of the Division of Juvenile Parole Operations, the Inspector General of the Youth and Adult Correctional Agency or any internal affairs investigator under the authority of the Inspector General, certain other correctional and transportation officers having custodial responsibilities in an institution operated by a probation department, as specified, and other employees designated by the Department of Corrections and Rehabilitation, as specified.

Existing law requires all peace officers generally, who carry firearms, to complete training prescribed by the Commission on Peace Officer Standards and Training (POST). In addition to this requirement, existing law requires persons included in the above class of peace officers, and who are permitted to carry firearms, to qualify the firearm at least quarterly. Existing law requires that this class of peace officers maintain their eligibility to carry concealable firearms off duty.

This bill would ~~remove the additional requirement that parole and probation officers, as described above, be required to qualify their firearms quarterly and the requirement to maintain their eligibility to carry concealable firearms off duty. Under this bill, general provisions regarding POST training that relate to peace officers in general would continue to apply.~~ *require a probation officer or deputy probation officer, notwithstanding the above provisions of law, to qualify with their firearm at least every 6 months, rather than quarterly.*

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

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

1 SECTION 1. Section 830.5 of the Penal Code is amended to  
2 read:

3 830.5. The following persons are peace officers whose authority  
4 extends to any place in the state while engaged in the performance  
5 of the duties of their respective employment and for the purpose  
6 of carrying out the primary function of their employment or as  
7 required under Sections 8597, 8598, and 8617 of the Government  
8 Code. Except as specified in this section, these peace officers may  
9 carry firearms only if authorized and under those terms and  
10 conditions specified by their employing agency:

11 (a) A parole officer of the Department of Corrections or the  
12 Department of the Youth Authority, probation officer, deputy  
13 probation officer, or a board coordinating parole agent employed  
14 by the Youthful Offender Parole Board. Except as otherwise  
15 provided in this subdivision, the authority of these parole or  
16 probation officers shall extend only as follows:

17 (1) To conditions of parole or of probation by any person in this  
18 state on parole or probation.

19 (2) To the escape of any inmate or ward from a state or local  
20 institution.

21 (3) To the transportation of persons on parole or probation.

22 (4) To violations of any penal provisions of law which are  
23 discovered while performing the usual or authorized duties of his  
24 or her employment.

25 (5) To the rendering of mutual aid to any other law enforcement  
26 agency.

1 For the purposes of this subdivision, “parole agent” shall have  
2 the same meaning as parole officer of the Department of  
3 Corrections or of the Department of the Youth Authority.

4 Any parole officer of the Department of Corrections, the  
5 Department of the Youth Authority, or the Youthful Offender  
6 Parole Board is authorized to carry firearms, but only as determined  
7 by the director on a case-by-case or unit-by-unit basis and only  
8 under those terms and conditions specified by the director or  
9 chairperson. The Department of the Youth Authority shall develop  
10 a policy for arming peace officers of the Department of the Youth  
11 Authority who comprise “high-risk transportation details” or  
12 “high-risk escape details” no later than June 30, 1995. This policy  
13 shall be implemented no later than December 31, 1995.

14 The Department of the Youth Authority shall train and arm those  
15 peace officers who comprise tactical teams at each facility for use  
16 during “high-risk escape details.”

17 (b) A correctional officer employed by the Department of  
18 Corrections or any employee of the Department of the Youth  
19 Authority having custody of wards or the Inspector General of the  
20 Youth and Adult Correctional Agency or any internal affairs  
21 investigator under the authority of the Inspector General or any  
22 employee of the Department of Corrections designated by the  
23 Director of Corrections or any correctional counselor series  
24 employee of the Department of Corrections or any medical  
25 technical assistant series employee designated by the Director of  
26 Corrections or designated by the Director of Corrections and  
27 employed by the State Department of Mental Health or employee  
28 of the Board of Prison Terms designated by the Secretary of the  
29 Youth and Adult Correctional Agency or employee of the  
30 Department of the Youth Authority designated by the Director of  
31 the Youth Authority or any superintendent, supervisor, or employee  
32 having custodial responsibilities in an institution operated by a  
33 probation department, or any transportation officer of a probation  
34 department.

35 (c) The following persons may carry a firearm while not on  
36 duty: a parole officer of the Department of Corrections or the  
37 Department of the Youth Authority, a correctional officer or  
38 correctional counselor employed by the Department of Corrections  
39 or any employee of the Department of the Youth Authority having  
40 custody of wards or any employee of the Department of Corrections

1 designated by the Director of Corrections. A parole officer of the  
 2 Youthful Offender Parole Board may carry a firearm while not on  
 3 duty only when so authorized by the chairperson of the board and  
 4 only under the terms and conditions specified by the chairperson.  
 5 Nothing in this section shall be interpreted to require licensure  
 6 pursuant to Section 12025. The director or chairperson may deny,  
 7 suspend, or revoke for good cause a person’s right to carry a  
 8 firearm under this subdivision. That person shall, upon request,  
 9 receive a hearing, as provided for in the negotiated grievance  
 10 procedure between the exclusive employee representative and the  
 11 Department of Corrections, the Department of the Youth Authority,  
 12 or the Youthful Offender Parole Board, to review the director’s or  
 13 the chairperson’s decision.

14 *(d) Persons permitted to carry firearms pursuant to this section,*  
 15 *either on or off duty, shall meet the training requirements of Section*  
 16 *832 and shall qualify with the firearm at least quarterly. It is the*  
 17 *responsibility of the individual officer or designee to maintain his*  
 18 *or her eligibility to carry concealable firearms off duty. Failure*  
 19 *to maintain quarterly qualifications by an officer or designee with*  
 20 *any concealable firearms carried off duty shall constitute good*  
 21 *cause to suspend or revoke that person’s right to carry firearms*  
 22 *off duty.*

23 *(e) Notwithstanding subdivision (d), a probation officer or*  
 24 *deputy probation officer permitted to carry firearms pursuant to*  
 25 *this section, either on or off duty, shall meet the training*  
 26 *requirements of Section 832 and shall qualify with the firearm at*  
 27 *least every six months. It is the responsibility of the individual*  
 28 *officer or designee to maintain his or her eligibility to carry*  
 29 *concealable firearms off duty. Failure to maintain quarterly*  
 30 *qualifications by an officer or designee with any concealable*  
 31 *firearms carried off duty shall constitute good cause to suspend*  
 32 *or revoke that person’s right to carry firearms off duty.*

33 ~~(e)~~

34 *(f) The Department of Corrections shall allow reasonable access*  
 35 *to its ranges for officers and designees of either department to*  
 36 *qualify to carry concealable firearms off duty. The time spent on*  
 37 *the range for purposes of meeting the qualification requirements*  
 38 *shall be the person’s own time during the person’s off-duty hours.*

39 ~~(e)~~

1 (g) The Director of Corrections shall promulgate regulations  
2 consistent with this section.

3 ~~(f)~~

4 (h) “High-risk transportation details” and “high-risk escape  
5 details” as used in this section shall be determined by the Director  
6 of the Youth Authority, or his or her designee. The director, or his  
7 or her designee, shall consider at least the following in determining  
8 “high-risk transportation details” and “high-risk escape details”:  
9 protection of the public, protection of officers, flight risk, and  
10 violence potential of the wards.

11 ~~(g)~~

12 (i) “Transportation detail” as used in this section shall include  
13 transportation of wards outside the facility, including, but not  
14 limited to, court appearances, medical trips, and interfacility  
15 transfers.

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