

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1968**

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**Introduced by Assembly Member Wieckowski**

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, as amended, Wieckowski. Peace officers.

Existing law designates various persons as peace officers, including probation officers, parole officers, and parole agents, and provides that their authority extends to certain duties, including to the conditions of parole, probation, or postrelease community supervision of a person in the state on parole, probation, or postrelease community supervision, the escape of an inmate or ward from a state or local institution, the transportation of persons on parole, probation, or postrelease community supervision, and violations of law that are discovered while performing his or her duties. *Existing law categorizes a probation officer as a peace officer who may carry firearms only if authorized by his or her employing agency, and under the terms and conditions specified by his or her employing agency.*

~~This bill would make technical, nonsubstantive changes to these provisions:~~

*The bill would require that a probation officer or deputy probation officer responsible for a person on probation or postrelease community supervision that is deemed to be high risk pursuant to a risk-based assessment system be authorized to carry a firearm while on duty and*

would provide that this authorization may only be revoked by the chief probation officer for good cause, as provided.

By imposing new duties on counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

*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, as amended by Section 44 of Chapter 1124 of the Statutes
- 9 of 2002. Except as specified in this section, these peace officers
- 10 may carry firearms only if authorized and under those terms and
- 11 conditions specified by their employing agency:
- 12 (a) A parole officer of the Department of Corrections and
- 13 Rehabilitation, or the Department of Corrections and
- 14 Rehabilitation, Division of Juvenile Parole Operations, probation
- 15 officer, deputy probation officer, or a board coordinating parole
- 16 agent employed by the Juvenile Parole Board. Except as otherwise
- 17 provided in this subdivision, the authority of these parole or
- 18 probation officers shall extend only as follows:
- 19 (1) To conditions of parole, probation, or postrelease community
- 20 supervision by any person in this state on parole, probation, or
- 21 postrelease community supervision.
- 22 (2) To the escape of any inmate or ward from a state or local
- 23 institution.

1 (3) To the transportation of persons on parole, probation, or  
2 postrelease community supervision.

3 (4) To violations of any penal provisions of law that are  
4 discovered while performing the usual or authorized duties of his  
5 or her employment.

6 (5) (A) To the rendering of mutual aid to any other law  
7 enforcement agency.

8 (B) For the purposes of this subdivision, “parole agent” shall  
9 have the same meaning as parole officer of the Department of  
10 Corrections and Rehabilitation or of the Department of Corrections  
11 and Rehabilitation, Division of Juvenile Justice.

12 (C) Any parole officer of the Department of Corrections and  
13 Rehabilitation, or the Department of Corrections and  
14 Rehabilitation, Division of Juvenile Parole Operations, is  
15 authorized to carry firearms, but only as determined by the director  
16 on a case-by-case or unit-by-unit basis and only under those terms  
17 and conditions specified by the director or chairperson. The  
18 Department of Corrections and Rehabilitation, Division of Juvenile  
19 Justice, shall develop a policy for arming peace officers of the  
20 Department of Corrections and Rehabilitation, Division of Juvenile  
21 Justice, who comprise “high-risk transportation details” or  
22 “high-risk escape details” no later than June 30, 1995. This policy  
23 shall be implemented no later than December 31, 1995.

24 (D) The Department of Corrections and Rehabilitation, Division  
25 of Juvenile Justice, shall train and arm those peace officers who  
26 comprise tactical teams at each facility for use during “high-risk  
27 escape details.”

28 (b) A correctional officer employed by the Department of  
29 Corrections and Rehabilitation, or of the Department of Corrections  
30 and Rehabilitation, Division of Juvenile Justice, having custody  
31 of wards or any employee of the Department of Corrections and  
32 Rehabilitation designated by the secretary or any correctional  
33 counselor series employee of the Department of Corrections and  
34 Rehabilitation or any medical technical assistant series employee  
35 designated by the secretary or designated by the secretary and  
36 employed by the State Department of Mental Health or any  
37 employee of the Board of Parole Hearings designated by the  
38 secretary or employee of the Department of Corrections and  
39 Rehabilitation, Division of Juvenile Justice, designated by the  
40 secretary or any superintendent, supervisor, or employee having

1 custodial responsibilities in an institution operated by a probation  
 2 department, or any transportation officer of a probation department.  
 3 (c) The following persons may carry a firearm while not on  
 4 duty: a parole officer of the Department of Corrections and  
 5 Rehabilitation, or the Department of Corrections and  
 6 Rehabilitation, Division of Juvenile Justice, a correctional officer  
 7 or correctional counselor employed by the Department of  
 8 Corrections and Rehabilitation, or an employee of the Department  
 9 of Corrections and Rehabilitation, Division of Juvenile Justice,  
 10 having custody of wards or any employee of the Department of  
 11 Corrections and Rehabilitation designated by the secretary. A  
 12 parole officer of the Juvenile Parole Board may carry a firearm  
 13 while not on duty only when so authorized by the chairperson of  
 14 the board and only under the terms and conditions specified by  
 15 the chairperson. Nothing in this section shall be interpreted to  
 16 require licensure pursuant to Section 25400. The director or  
 17 chairperson may deny, suspend, or revoke for good cause a  
 18 person's right to carry a firearm under this subdivision. That person  
 19 shall, upon request, receive a hearing, as provided for in the  
 20 negotiated grievance procedure between the exclusive employee  
 21 representative and the Department of Corrections and  
 22 Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole  
 23 Board, to review the director's or the chairperson's decision.  
 24 (d) *A probation officer or deputy probation officer responsible*  
 25 *for a person on probation or postrelease community supervision*  
 26 *that is deemed to be high risk pursuant to a risk-based assessment*  
 27 *system shall be granted an authorization to carry a firearm while*  
 28 *on duty unless that authorization is revoked by the chief probation*  
 29 *officer for good cause. If that authorization to carry a firearm is*  
 30 *revoked, the officer shall, upon request, receive a hearing as*  
 31 *provided for in the negotiated grievance procedure between the*  
 32 *exclusive employee representative and the county probation*  
 33 *department to review the chief probation officer's decision.*  
 34 ~~(d)~~  
 35 (e) Persons permitted to carry firearms pursuant to this section,  
 36 either on or off duty, shall meet the training requirements of Section  
 37 832 and shall qualify with the firearm at least quarterly. It is the  
 38 responsibility of the individual officer or designee to maintain his  
 39 or her eligibility to carry concealable firearms off duty. Failure to  
 40 maintain quarterly qualifications by an officer or designee with

1 any concealable firearms carried off duty shall constitute good  
2 cause to suspend or revoke that person’s right to carry firearms  
3 off duty.

4 ~~(e)~~

5 (f) The Department of Corrections and Rehabilitation shall allow  
6 reasonable access to its ranges for officers and designees of either  
7 department to qualify to carry concealable firearms off duty. The  
8 time spent on the range for purposes of meeting the qualification  
9 requirements shall be the person’s own time during the person’s  
10 off-duty hours.

11 ~~(f)~~

12 (g) The secretary shall promulgate regulations consistent with  
13 this section.

14 ~~(g)~~

15 (h) “High-risk transportation details” and “high-risk escape  
16 details” as used in this section shall be determined by the secretary,  
17 or his or her designee. The secretary, or his or her designee, shall  
18 consider at least the following in determining “high-risk  
19 transportation details” and “high-risk escape details”: protection  
20 of the public, protection of officers, flight risk, and violence  
21 potential of the wards.

22 ~~(h)~~

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

27 ~~(i)~~

28 (j) This section is operative January 1, 2012.

29 *SEC. 2. If the Commission on State Mandates determines that*  
30 *this act contains costs mandated by the state, reimbursement to*  
31 *local agencies and school districts for those costs shall be made*  
32 *pursuant to Part 7 (commencing with Section 17500) of Division*  
33 *4 of Title 2 of the Government Code.*