

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN ASSEMBLY MAY 29, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1968

Introduced by Assembly Member Wieckowski

February 23, 2012

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 authorize any probation officer or deputy probation officer to carry firearms as determined by the chief probation officer on a case-by-case or unit-by-unit basis and under terms and conditions specified by the chief probation officer. The bill would require each

chief probation officer to develop a policy for arming probation officers and deputy probation officers who comprise high-risk case loads no later than June 30, 2013, and would require the policy to be implemented no later than December 31, 2013.

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: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 830.5 of the Penal Code, as amended by
2 Section 25 of Chapter 43 of the Statutes of 2012, is amended to
3 read:

4 830.5. The following persons are peace officers whose authority
5 extends to any place in the state while engaged in the performance
6 of the duties of their respective employment and for the purpose
7 of carrying out the primary function of their employment or as
8 required under Sections 8597, 8598, and 8617 of the Government
9 Code, as amended by Section 44 of Chapter 1124 of the Statutes
10 of 2002. Except as specified in this section, these peace officers
11 may carry firearms only if authorized and under those terms and
12 conditions specified by their employing agency:

13 (a) A parole officer of the Department of Corrections and
14 Rehabilitation, or the Department of Corrections and
15 Rehabilitation, Division of Juvenile Parole Operations, probation
16 officer, deputy probation officer, or a board coordinating parole
17 agent employed by the Juvenile Parole Board. Except as otherwise
18 provided in this subdivision, the authority of these parole or
19 probation officers shall extend only as follows:

20 (1) To conditions of parole, probation, mandatory supervision,
21 or postrelease community supervision by any person in this state

1 on parole, probation, mandatory supervision, or postrelease
2 community supervision.

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

5 (3) To the transportation of persons on parole, probation,
6 mandatory supervision, or postrelease community supervision.

7 (4) To violations of any penal provisions of law ~~which~~ *that* are
8 discovered while performing the usual or authorized duties of his
9 or her employment.

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

12 (B) For the purposes of this subdivision, “parole agent” shall
13 have the same meaning as parole officer of the Department of
14 Corrections and Rehabilitation or of the Department of Corrections
15 and Rehabilitation, Division of Juvenile Justice.

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

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

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

1 employee of the Board of Parole Hearings designated by the
 2 secretary or employee of the Department of Corrections and
 3 Rehabilitation, Division of Juvenile Justice, designated by the
 4 secretary or any superintendent, supervisor, or employee having
 5 custodial responsibilities in an institution operated by a probation
 6 department, or any transportation officer of a probation department.

7 (c) The following persons may carry a firearm while not on
 8 duty: a parole officer of the Department of Corrections and
 9 Rehabilitation, or the Department of Corrections and
 10 Rehabilitation, Division of Juvenile Justice, a correctional officer
 11 or correctional counselor employed by the Department of
 12 Corrections and Rehabilitation, or an employee of the Department
 13 of Corrections and Rehabilitation, Division of Juvenile Justice,
 14 having custody of wards or any employee of the Department of
 15 Corrections and Rehabilitation designated by the secretary. A
 16 parole officer of the Juvenile Parole Board may carry a firearm
 17 while not on duty only when so authorized by the chairperson of
 18 the board and only under the terms and conditions specified by
 19 the chairperson. Nothing in this section shall be interpreted to
 20 require licensure pursuant to Section 25400. The director or
 21 chairperson may deny, suspend, or revoke for good cause a
 22 person’s right to carry a firearm under this subdivision. That person
 23 shall, upon request, receive a hearing, as provided for in the
 24 negotiated grievance procedure between the exclusive employee
 25 representative and the Department of Corrections and
 26 Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole
 27 Board, to review the director’s or the chairperson’s decision.

28 (d) *A probation officer or deputy probation officer is authorized*
 29 *to carry firearms, but only as determined by the chief probation*
 30 *officer on a case-by-case or unit-by-unit basis and only under*
 31 *those terms and conditions specified by the chief probation officer.*
 32 *Each chief probation officer shall develop a policy for arming*
 33 *probation officers and deputy probation officers who comprise*
 34 *high-risk caseloads no later than June 30, 2013. This policy shall*
 35 *be implemented no later than December 31, 2013.*

36 (e)

37 (e) Persons permitted to carry firearms pursuant to this section,
 38 either on or off duty, shall meet the training requirements of Section
 39 832 and shall qualify with the firearm at least quarterly. It is the
 40 responsibility of the individual officer or designee to maintain his

1 or her eligibility to carry concealable firearms off duty. Failure to
2 maintain quarterly qualifications by an officer or designee with
3 any concealable firearms carried off duty shall constitute good
4 cause to suspend or revoke that person's right to carry firearms
5 off duty.

6 (e)

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

13 (f)

14 (g) The secretary shall promulgate regulations consistent with
15 this section.

16 (g)

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

24 (h)

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

29 (i)

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

31 ~~SECTION 1. Section 830.5 of the Penal Code is amended to~~
32 ~~read:~~

33 ~~830.5. The following persons are peace officers whose authority~~
34 ~~extends to any place in the state while engaged in the performance~~
35 ~~of the duties of their respective employment and for the purpose~~
36 ~~of carrying out the primary function of their employment or as~~
37 ~~required under Sections 8597, 8598, and 8617 of the Government~~
38 ~~Code, as amended by Section 44 of Chapter 1124 of the Statutes~~
39 ~~of 2002. Except as specified in this section, these peace officers~~

1 may carry firearms only if authorized and under those terms and
2 conditions specified by their employing agency:

3 (a) ~~A parole officer of the Department of Corrections and~~
4 ~~Rehabilitation, or the Department of Corrections and~~
5 ~~Rehabilitation, Division of Juvenile Parole Operations, probation~~
6 ~~officer, deputy probation officer, or a board coordinating parole~~
7 ~~agent employed by the Juvenile Parole Board. Except as otherwise~~
8 ~~provided in this subdivision, the authority of these parole or~~
9 ~~probation officers shall extend only as follows:~~

10 (1) ~~To conditions of parole, probation, or postrelease community~~
11 ~~supervision by any person in this state on parole, probation, or~~
12 ~~postrelease community supervision.~~

13 (2) ~~To the escape of any inmate or ward from a state or local~~
14 ~~institution.~~

15 (3) ~~To the transportation of persons on parole, probation, or~~
16 ~~postrelease community supervision.~~

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

20 (5) (A) ~~To the rendering of mutual aid to any other law~~
21 ~~enforcement agency.~~

22 (B) ~~For the purposes of this subdivision, "parole agent" shall~~
23 ~~have the same meaning as parole officer of the Department of~~
24 ~~Corrections and Rehabilitation or of the Department of Corrections~~
25 ~~and Rehabilitation, Division of Juvenile Justice.~~

26 (C) ~~Any parole officer of the Department of Corrections and~~
27 ~~Rehabilitation, or the Department of Corrections and~~
28 ~~Rehabilitation, Division of Juvenile Parole Operations, is~~
29 ~~authorized to carry firearms, but only as determined by the director~~
30 ~~on a case-by-case or unit-by-unit basis and only under those terms~~
31 ~~and conditions specified by the director or chairperson. The~~
32 ~~Department of Corrections and Rehabilitation, Division of Juvenile~~
33 ~~Justice, shall develop a policy for arming peace officers of the~~
34 ~~Department of Corrections and Rehabilitation, Division of Juvenile~~
35 ~~Justice, who comprise "high-risk transportation details" or~~
36 ~~"high-risk escape details" no later than June 30, 1995. This policy~~
37 ~~shall be implemented no later than December 31, 1995.~~

38 (D) ~~The Department of Corrections and Rehabilitation, Division~~
39 ~~of Juvenile Justice, shall train and arm those peace officers who~~

1 comprise tactical teams at each facility for use during “high-risk
2 escape details.”

3 (b) ~~A correctional officer employed by the Department of
4 Corrections and Rehabilitation, or of the Department of Corrections
5 and Rehabilitation, Division of Juvenile Justice, having custody
6 of wards or any employee of the Department of Corrections and
7 Rehabilitation designated by the secretary or any correctional
8 counselor series employee of the Department of Corrections and
9 Rehabilitation or any medical technical assistant series employee
10 designated by the secretary or designated by the secretary and
11 employed by the State Department of Mental Health or any
12 employee of the Board of Parole Hearings designated by the
13 secretary or employee of the Department of Corrections and
14 Rehabilitation, Division of Juvenile Justice, designated by the
15 secretary or any superintendent, supervisor, or employee having
16 custodial responsibilities in an institution operated by a probation
17 department, or any transportation officer of a probation department.~~

18 (c) ~~The following persons may carry a firearm while not on
19 duty: a parole officer of the Department of Corrections and
20 Rehabilitation, or the Department of Corrections and
21 Rehabilitation, Division of Juvenile Justice, a correctional officer
22 or correctional counselor employed by the Department of
23 Corrections and Rehabilitation, or an employee of the Department
24 of Corrections and Rehabilitation, Division of Juvenile Justice,
25 having custody of wards or any employee of the Department of
26 Corrections and Rehabilitation designated by the secretary. A
27 parole officer of the Juvenile Parole Board may carry a firearm
28 while not on duty only when so authorized by the chairperson of
29 the board and only under the terms and conditions specified by
30 the chairperson. Nothing in this section shall be interpreted to
31 require licensure pursuant to Section 25400. The director or
32 chairperson may deny, suspend, or revoke for good cause a
33 person’s right to carry a firearm under this subdivision. That person
34 shall, upon request, receive a hearing, as provided for in the
35 negotiated grievance procedure between the exclusive employee
36 representative and the Department of Corrections and
37 Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole
38 Board, to review the director’s or the chairperson’s decision.~~

39 (d) ~~Any probation officer or deputy probation officer is
40 authorized to carry firearms, but only as determined by the chief~~

1 ~~probation officer on a case-by-case or unit-by-unit basis and only~~
 2 ~~under those terms and conditions specified by the chief probation~~
 3 ~~officer. Each chief probation officer shall develop a policy for~~
 4 ~~arming probation officers and deputy probation officers who~~
 5 ~~comprise high-risk caseloads no later than June 30, 2013. This~~
 6 ~~policy shall be implemented no later than December 31, 2013.~~

7 ~~(e) Persons permitted to carry firearms pursuant to this section,~~
 8 ~~either on or off duty, shall meet the training requirements of Section~~
 9 ~~832 and shall qualify with the firearm at least quarterly. It is the~~
 10 ~~responsibility of the individual officer or designee to maintain his~~
 11 ~~or her eligibility to carry concealable firearms off duty. Failure to~~
 12 ~~maintain quarterly qualifications by an officer or designee with~~
 13 ~~any concealable firearms carried off duty shall constitute good~~
 14 ~~cause to suspend or revoke that person’s right to carry firearms~~
 15 ~~off duty.~~

16 ~~(f) The Department of Corrections and Rehabilitation shall allow~~
 17 ~~reasonable access to its ranges for officers and designees of either~~
 18 ~~department to qualify to carry concealable firearms off duty. The~~
 19 ~~time spent on the range for purposes of meeting the qualification~~
 20 ~~requirements shall be the person’s own time during the person’s~~
 21 ~~off-duty hours.~~

22 ~~(g) The secretary shall promulgate regulations consistent with~~
 23 ~~this section.~~

24 ~~(h) “High-risk transportation details” and “high-risk escape~~
 25 ~~details” as used in this section shall be determined by the secretary,~~
 26 ~~or his or her designee. The secretary, or his or her designee, shall~~
 27 ~~consider at least the following in determining “high-risk~~
 28 ~~transportation details” and “high-risk escape details”: protection~~
 29 ~~of the public, protection of officers, flight risk, and violence~~
 30 ~~potential of the wards.~~

31 ~~(i) “Transportation detail” as used in this section shall include~~
 32 ~~transportation of wards outside the facility, including, but not~~
 33 ~~limited to, court appearances, medical trips, and interfacility~~
 34 ~~transfers.~~

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

36 SEC. 2. If the Commission on State Mandates determines that
 37 this act contains costs mandated by the state, reimbursement to
 38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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