

AMENDED IN ASSEMBLY MAY 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2623

Introduced by Assembly Member Allen

February 24, 2012

An act to amend Section 830.38 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2623, as amended, Allen. State hospitals: peace officers.

Under existing law, peace officers of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services are authorized to carry firearms only as authorized and under terms and conditions specified by their employing agency.

This bill would ~~instead~~ require *each department to, by June 30, 2013, adopt a policy for arming peace officers of those state hospitals to carry a firearm under each department's jurisdiction while performing assigned security functions outside of the secure treatment area of the hospital, and would require each department to implement the policy by January 1, 2014.*

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. The Legislature finds and declares all of the~~
- 2 ~~following:~~

1 ~~(a) Over the years, the patient population in state hospitals has~~
2 ~~changed from virtually all the clients being civil commitments to~~
3 ~~the current population of over 92 percent forensic commitments.~~
4 ~~The majority of these patients have been committed to the state~~
5 ~~hospitals for heinous and violent crimes against other human~~
6 ~~beings, including rape, assault with a deadly weapon, and murder.~~

7 ~~(b) Hospital police officers (HPOs) are employed at the~~
8 ~~following state hospitals: Patton, Coalinga, Napa, Atascadero, and~~
9 ~~Metropolitan. HPOs are peace officers pursuant to Section 830.38~~
10 ~~of the Penal Code, and they perform their duties without a firearm.~~
11 ~~Each hospital works under the auspices of the State Department~~
12 ~~of Mental Health.~~

13 ~~(c) HPOs at each facility have varying roles. HPOs are~~
14 ~~responsible for enforcing the law on hospital grounds 24 hours a~~
15 ~~day and seven days a week. Inside each facility is a forensic~~
16 ~~compound, which is surrounded by an 18-foot fence. Housed within~~
17 ~~these compounds are forensic patients who, among other things,~~
18 ~~have been found not guilty by reason of insanity, incompetent to~~
19 ~~stand trial, and have been transferred from prison for psychiatric~~
20 ~~treatment.~~

21 ~~(d) Most HPOs work any one of three shifts during a 24-hour~~
22 ~~period and may be assigned duties that include patrolling hospital~~
23 ~~grounds in a vehicle, conducting vehicle stops, pursuing and~~
24 ~~apprehending escaped patients, providing off-grounds custody to~~
25 ~~patients, transporting a patient on a compassionate leave visit, or~~
26 ~~transporting patients off grounds.~~

27 ~~(e) At Patton and Coalinga State Hospitals, transportation,~~
28 ~~e custody, and perimeter patrol functions outside the secure treatment~~
29 ~~area are performed by armed correctional officers. HPOs provide~~
30 ~~these same functions, as well as mutual aid to local law~~
31 ~~enforcement agencies, at Napa, Metropolitan, and Atascadero State~~
32 ~~Hospitals.~~

33 ~~(f) It is the intent of the Legislature in enacting this legislation~~
34 ~~to provide the surrounding communities of Napa, Metropolitan,~~
35 ~~and Atascadero State Hospitals with the same level of protection~~
36 ~~and security that Patton and Coalinga State Hospitals currently~~
37 ~~enjoy. This legislation shall only apply to functions performed~~
38 ~~outside the secure treatment area during the prescribed functions~~
39 ~~in Section 830.38 of the Penal Code.~~

1 ~~SEC. 2.~~

2 ~~SECTION 1.~~ Section 830.38 of the Penal Code is amended to
3 read:

4 830.38. The officers of a state hospital under the jurisdiction
5 of the State Department of Mental Health or the State Department
6 of Developmental Services appointed pursuant to Section 4313 or
7 4493 of the Welfare and Institutions Code, are peace officers whose
8 authority extends to any place in the state for the purpose of
9 performing their primary duty or when making an arrest pursuant
10 to Section 836 as to any public offense with respect to which there
11 is immediate danger to person or property, or of the escape of the
12 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
13 the Government Code provided that the primary duty of the peace
14 officers shall be the enforcement of the law as set forth in Sections
15 4311, 4313, 4491, and 4493 of the Welfare and Institutions Code.
16 Those peace officers ~~shall~~ *may* carry firearms ~~while performing~~
17 ~~assigned functions outside of the secure treatment area of the~~
18 ~~hospital~~ *only if authorized under the terms and conditions specified*
19 *by their employing agency. By June 30, 2013, the State Department*
20 *of Mental Health and the State Department of Development*
21 *Services shall each develop a policy for arming state hospital*
22 *peace officers under their jurisdiction while those officers are*
23 *performing hospital security functions outside of the secure area*
24 *of the hospital. Each department shall implement its policy by*
25 *January 1, 2014.*

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