

Introduced by Senator Hernandez

February 24, 2012

An act to amend Section 832.7 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1353, as introduced, Hernandez. Peace officer records.

Existing law requires peace officer or custodial officer personnel records and records maintained by a state or local agency, or information obtained from these records, to be confidential and prohibits disclosure in a criminal or civil proceeding except by discovery. Existing law authorizes a department or agency that employs peace or custodial officers to release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action and the false statement was published by an established medium of communication, such as television, radio, or a newspaper.

This bill would authorize disclosure of factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, makes a false statement that is published by an Internet Web site affiliated with a newspaper.

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

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

SECTION 1. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Peace officer or custodial officer personnel records and records maintained by ~~any~~ a state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in ~~any~~ a criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) Notwithstanding subdivision (a), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(c) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form ~~which~~ *that* does not identify the individuals involved.

(d) Notwithstanding subdivision (a), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper *or an Internet Web site affiliated with a newspaper*. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

1 (e) (1) The department or agency shall provide written
2 notification to the complaining party of the disposition of the
3 complaint within 30 days of the disposition.

4 (2) The notification described in this subdivision shall not be
5 conclusive or binding or admissible as evidence in ~~any~~ *a* separate
6 or subsequent action or proceeding brought before an arbitrator,
7 court, or judge of this state or the United States.

8 (f) Nothing in this section shall affect the discovery or disclosure
9 of information contained in a peace or custodial officer's personnel
10 file pursuant to Section 1043 of the Evidence Code.