

AMENDED IN ASSEMBLY APRIL 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2314**

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**Introduced by Assembly Member Hall**

February 21, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2314, as amended, Hall. Peace officers: firearms.

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, mandatory supervision, or postrelease community supervision of a person in the state on parole, probation, mandatory supervision, 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 require the chief probation officer of each county to train and arm those probation officers and deputy probation officers who are assigned supervision of persons on probation or postrelease community supervision that are deemed high risk. The bill would require every county probation department to promulgate regulations consistent with these provisions.~~

*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 certain chief probation officers to develop a policy as to whether probation officers and deputy probation officers who supervise high-risk caseloads should be armed. That policy would be required to be adopted no later than June 30, 2015, and would be required to be implemented no later than December 31, 2015, if the chief probation officer has not armed or has not adopted a policy regarding arming probation officers or deputy probation officers prior to January 1, 2015. The bill would define a high-risk caseload as a caseload that includes individuals who have been released from state prison subject to postrelease community supervision and have a prior conviction for a serious felony or violent felony.*

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 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:

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

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

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

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

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

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

21 (B) For the purposes of this subdivision, “parole agent” shall  
22 have the same meaning as parole officer of the Department of  
23 Corrections and Rehabilitation or of the Department of Corrections  
24 and Rehabilitation, Division of Juvenile Facilities.

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

37 (D) The Department of Corrections and Rehabilitation, Division  
38 of Juvenile Facilities, shall train and arm those peace officers who  
39 comprise tactical teams at each facility for use during “high-risk  
40 escape details.”

1     ~~(E) The chief probation officer of each county shall train and~~  
2 ~~arm those probation officers and deputy probation officers who~~  
3 ~~are assigned supervision duties of persons on probation or~~  
4 ~~postrelease community supervision that are deemed “high risk.”~~

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

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

1 (d) (1) A probation officer or deputy probation officer is  
2 authorized to carry firearms, but only as determined by the chief  
3 probation officer on a case-by-case or unit-by-unit basis and only  
4 under those terms and conditions specified by the chief probation  
5 officer.

6 (2) (A) If a chief probation officer has not armed or has not  
7 adopted a policy regarding arming probation officers and deputy  
8 probation officers prior to January 1, 2015, the chief probation  
9 officer for each county shall develop a policy no later than June  
10 30, 2015, as to whether probation officers and deputy probation  
11 officers who supervise high-risk caseloads should be armed. This  
12 policy shall be implemented no later than December 31, 2015.

13 (B) For purposes of this section, "high-risk caseload" means  
14 a caseload that includes individuals who have been released from  
15 state prison subject to postrelease community supervision and  
16 have a prior conviction for a serious felony described in  
17 subdivision (c) of Section 1192.7 or a violent felony described in  
18 subdivision (c) of Section 667.5.

19 ~~(d)~~

20 (e) Persons permitted to carry firearms pursuant to this section,  
21 either on or off duty, shall meet the training requirements of Section  
22 832 and shall qualify with the firearm at least quarterly. It is the  
23 responsibility of the individual officer or designee to maintain his  
24 or her eligibility to carry concealable firearms off duty. Failure to  
25 maintain quarterly qualifications by an officer or designee with  
26 any concealable firearms carried off duty shall constitute good  
27 cause to suspend or revoke that person's right to carry firearms  
28 off duty.

29 ~~(e)~~

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

36 ~~(f)~~

37 (g) The secretary and every county probation department shall  
38 promulgate regulations consistent with this section.

39 ~~(g)~~

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

8 ~~(h)~~

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

13 SEC. 2. If the Commission on State Mandates determines that  
14 this act contains costs mandated by the state, reimbursement to  
15 local agencies and school districts for those costs shall be made  
16 pursuant to Part 7 (commencing with Section 17500) of Division  
17 4 of Title 2 of the Government Code.