

AMENDED IN ASSEMBLY MAY 7, 2014

AMENDED IN ASSEMBLY APRIL 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2314

Introduced by Assembly Member Hall

February 21, 2014

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 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:
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

1 agent employed by the Juvenile Parole Board. Except as otherwise
2 provided in this subdivision, the authority of these parole or
3 probation officers shall extend only as follows:

4 (1) To conditions of parole, probation, mandatory supervision,
5 or postrelease community supervision by any person in this state
6 on parole, probation, mandatory supervision, or postrelease
7 community supervision.

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

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

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

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

17 (B) For the purposes of this subdivision, "parole agent" shall
18 have the same meaning as parole officer of the Department of
19 Corrections and Rehabilitation or of the Department of Corrections
20 and Rehabilitation, Division of Juvenile Facilities.

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

33 (D) The Department of Corrections and Rehabilitation, Division
34 of Juvenile Facilities, shall train and arm those peace officers who
35 comprise tactical teams at each facility for use during "high-risk
36 escape details."

37 (b) A correctional officer employed by the Department of
38 Corrections and Rehabilitation, or of the Department of Corrections
39 and Rehabilitation, Division of Juvenile Facilities, having custody
40 of wards or any employee of the Department of Corrections and

1 Rehabilitation designated by the secretary or any correctional
2 counselor series employee of the Department of Corrections and
3 Rehabilitation or any medical technical assistant series employee
4 designated by the secretary or designated by the secretary and
5 employed by the State Department of State Hospitals or any
6 employee of the Board of Parole Hearings designated by the
7 secretary or employee of the Department of Corrections and
8 Rehabilitation, Division of Juvenile Facilities, designated by the
9 secretary or any superintendent, supervisor, or employee having
10 custodial responsibilities in an institution operated by a probation
11 department, or any transportation officer of a probation department.

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

33 (d) (1) A probation officer or deputy probation officer is
34 authorized to carry firearms, but only as determined by the chief
35 probation officer on a case-by-case or unit-by-unit basis and only
36 under those terms and conditions specified by the chief probation
37 officer.

38 (2) (A) If a chief probation officer has not armed or has not
39 adopted a policy regarding arming probation officers and deputy
40 probation officers prior to January 1, 2015, the chief probation

1 officer for each county shall develop a policy no later than June
2 30, 2015, as to whether probation officers and deputy probation
3 officers who supervise high-risk caseloads should be armed. This
4 policy shall be implemented no later than December 31, 2015.

5 (B) For purposes of this section, “high-risk caseload” means a
6 caseload that includes individuals who have been released from
7 state prison subject to postrelease community supervision and have
8 a prior conviction for a serious felony described in subdivision (c)
9 of Section 1192.7 or a violent felony described in subdivision (c)
10 of Section 667.5.

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

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

26 (g) ~~The secretary and every county probation department shall~~
27 promulgate regulations consistent with this section.

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

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

39 SEC. 2. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

- 1 local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

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