

Senate Bill No. 1406

Passed the Senate May 5, 2014

Secretary of the Senate

Passed the Assembly June 16, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 831.5 of the Penal Code, relating to correctional officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1406, Wolk. Correctional Officers: Napa County.

Under existing law, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a county having a population of 425,000 or less, or by certain specified counties, including Santa Clara County, and that officer has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility. Existing law requires custodial officers to undergo specified training, and authorizes those officers to perform specified duties, including, among others, serving warrants, court orders, writs, and subpoenas in the detention facility, and maintaining custody of prisoners and related tasks. Existing law authorizes custodial officers employed by the Santa Clara County Department of Correction to perform certain additional duties in a detention facility in that county, including, but not limited to, searching property, cells, prisoners, or visitors.

This bill would, upon resolution by the Napa County Board of Supervisors, authorize custodial officers employed by the Napa County Department of Corrections to perform certain additional duties in a facility located in Napa County similar to those described above for Santa Clara County correctional officers. The bill would prohibit its provisions from being construed to authorize the performance of any law enforcement activity involving any person other than an inmate or his or her visitors. The bill would also include a related statement of legislative intent.

This bill would make legislative findings and declarations as to the necessity of a special statute for Napa County.

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

SECTION 1. Section 831.5 of the Penal Code is amended to read:

831.5. (a) As used in this section, a custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of San Diego County, Fresno County, Kern County, Stanislaus County, Riverside County, Santa Clara County, Napa County, or a county having a population of 425,000 or less who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. Custodial officers of a county shall be employees of, and under the authority of, the sheriff, except in counties in which the sheriff, as of July 1, 1993, is not in charge of and the sole and exclusive authority to keep the county jail and the prisoners in it. A custodial officer includes a person designated as a correctional officer, jailer, or other similar title. The duties of a custodial officer may include the serving of warrants, court orders, writs, and subpoenas in the detention facility or under circumstances arising directly out of maintaining custody of prisoners and related tasks.

(b) A custodial officer has no right to carry or possess firearms in the performance of his or her prescribed duties, except, under the direction of the sheriff or chief of police, while engaged in transporting prisoners; guarding hospitalized prisoners; or suppressing jail riots, lynchings, escapes, or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to that position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within one year following the date of the initial assignment as a custodial officer, have satisfactorily met the minimum selection and training standards prescribed by the Board of State and Community Corrections pursuant to Section 6035. Persons designated as custodial officers, before the expiration of the 90-day and one-year periods described in this subdivision, who have not yet completed the required training, shall not carry or possess firearms in the performance of their prescribed duties, but may perform the duties of a custodial officer only while under the direct supervision of a peace officer, as described in Section 830.1,

who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may make warrantless arrests pursuant to Section 836.5 only during the duration of his or her job; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

(g) Custodial officers employed by the Santa Clara County Department of Correction are authorized to perform the following additional duties in the facility:

(1) Arrest a person without a warrant whenever the custodial officer has reasonable cause to believe that the person to be arrested has committed a misdemeanor or felony in the presence of the officer that is a violation of a statute or ordinance that the officer has the duty to enforce.

(2) Search property, cells, prisoners or visitors.

(3) Conduct strip or body cavity searches of prisoners pursuant to Section 4030.

(4) Conduct searches and seizures pursuant to a duly issued warrant.

(5) Segregate prisoners.

(6) Classify prisoners for the purpose of housing or participation in supervised activities.

These duties may be performed at the Santa Clara Valley Medical Center, or at other health care facilities in the County of Santa Clara, as needed and only as they directly relate to guarding in-custody inmates. This subdivision shall not be construed to authorize the performance of any law enforcement activity involving any person other than the inmate or his or her visitors.

(h) (1) Upon resolution by the Napa County Board of Supervisors, custodial officers employed by the Napa County Department of Corrections are authorized to perform all of the following duties in a facility located in that county:

(A) Arrest a person without a warrant whenever the custodial officer has reasonable cause to believe that the person to be arrested has committed a misdemeanor or felony in the presence of the officer that is a violation of a statute or ordinance that the officer has the duty to enforce.

(B) Search property, cells, prisoners, or visitors.

(C) Conduct strip or body cavity searches of prisoners pursuant to Section 4030.

(D) Conduct searches and seizures pursuant to a duly issued warrant.

(E) Segregate prisoners.

(F) Classify prisoners for the purpose of housing or participation in supervised activities.

(2) This subdivision shall not be construed to authorize the performance of any law enforcement activity involving any person other than an inmate or his or her visitors.

(i) Nothing in this section shall authorize a custodial officer to carry or possess a firearm when the officer is not on duty.

(j) It is the intent of the Legislature that this section, as it relates to Santa Clara and Napa Counties, enumerate specific duties of custodial officers (known as “correctional officers” in Santa Clara and Napa Counties) and to clarify the relationships of the correctional officers and deputy sheriffs in those counties. These duties are the same duties of the custodial officers prior to the date of enactment of Chapter 635 of the Statutes of 1999 pursuant to local rules and judicial decisions. It is further the intent of the Legislature that all issues regarding compensation for custodial officers remain subject to the collective bargaining process between the counties and the authorized bargaining representative for the custodial officers. However, nothing in this section shall be construed to assert that the duties of custodial officers are equivalent to the duties of deputy sheriffs nor to affect the ability of the county to negotiate pay that reflects the different duties of custodial officers and deputy sheriffs.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable

within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances that exist in Napa County, where the Napa County Department of Corrections, rather than the County of Napa Sheriff's Department, has jurisdiction over the Napa County Jail facility.

Approved _____, 2014

Governor