

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 619

Introduced by Assembly Member Weber

February 24, 2015

An act to amend Section 12525 of the Government Code, relating to ~~death records~~: *law enforcement reports*.

LEGISLATIVE COUNSEL'S DIGEST

AB 619, as amended, Weber. ~~Death records~~: *Reports: uses of force and deaths in law enforcement custody.*

Under existing law, ~~when~~ if a person dies while in the custody of a law enforcement agency or while in custody in a local or state correctional facility, the law enforcement agency or the agency in charge of the correctional facility is required to report in writing to the Attorney General, within 10 days after the death, all facts in the possession of the agency concerning the death. Existing law generally provides that those writings are public records under the California Public Records Act, and are open to public inspection pursuant to that act.

This bill would *specify, for the purposes described above, that "custody" includes, but is not limited to, any point in time when a person's freedom of movement is curtailed or limited by a peace officer, or when a person is led to believe, as a reasonable person, that he or she is so deprived of the freedom to move, such as during a stop, a stop and frisk, an interrogation, an arrest, transport prior to booking, or correctional confinement. Beginning January 1, 2018, the bill would require each state and local agency that employs a peace officer to annually report to the Attorney General data on the use of force by that agency's sworn personnel. The bill would provide that "use of force"*

includes, among other things, a use of force that results in, or contributes to, the medical treatment or hospitalization of a person. The bill would require the use of force reports and the death in custody reports described above to include specified information, including, among other things, the time, date, and location of the use of force or death. By imposing new duties on local agencies, the bill would impose a state-mandated local program.

This bill would additionally require the Attorney General to annually ~~provide to the Legislature~~ issue a report summarizing the writings received pursuant to the provisions described above. The bill would also require the Attorney General to make those reports available to the public by posting those reports on the Department of Justice’s Internet ~~Web-site~~ site, as specified.

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: ~~no~~-yes.

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

1 SECTION 1. Section 12525 of the Government Code is
 2 amended to read:
 3 12525. (a) ~~When~~(1) *If a person dies while in the custody of*
 4 *any law enforcement agency or while in custody in a local or state*
 5 *correctional facility in this state, the law enforcement agency or*
 6 *the agency in charge of the correctional facility shall report in*
 7 *writing to the Attorney General, within 10 days after the death, all*
 8 *facts in the possession of the law enforcement agency or agency*
 9 *in charge of the correctional facility concerning the death. The*
 10 *report shall comply with subdivision (c).*
 11 (2) *For purposes of this section, “custody” includes, but is not*
 12 *limited to, any point in time when a person’s freedom of movement*
 13 *is curtailed or limited by a peace officer, or when a person is led*
 14 *to believe, as a reasonable person, that he or she is so deprived*

1 *of the freedom to move, such as during a stop, a stop and frisk, an*
2 *interrogation, an arrest, transport prior to booking, or correctional*
3 *confinement.*

4 *(b) (1) Beginning January 1, 2018, each state and local agency*
5 *that employs a peace officer shall annually report to the Attorney*
6 *General data on the use of force by that agency's sworn personnel.*
7 *The report shall comply with subdivision (c).*

8 *(2) For purposes of this section, "use of force" includes, but is*
9 *not limited to, any of the following:*

10 *(A) A use of force that results in, or contributes to, the medical*
11 *treatment or hospitalization of a person.*

12 *(B) The discharge of a firearm at a person.*

13 *(C) The use of an electronic control or conducted energy device*
14 *on a person.*

15 *(D) A strike by a baton or other instrument on a person.*

16 *(E) Any strike to a person's head, neck, or chest.*

17 *(c) The reports made to the Attorney General pursuant to*
18 *subdivisions (a) and (b) shall, at a minimum, include all of the*
19 *following information:*

20 *(1) The time, date, and location of the use of force or death.*

21 *(2) The setting in which the use of force or death occurred,*
22 *including, but not limited to, a traffic stop, pedestrian stop, or in*
23 *a correctional facility or other correctional setting.*

24 *(3) The characteristics of each peace officer involved in the use*
25 *of force or death, including, but not limited to, each officer's race,*
26 *ethnicity, gender, age, assignment, division or station, shift, and*
27 *whether the officer was in uniform.*

28 *(4) A description of any person upon whom a use of force, as*
29 *described in subdivision (b), was applied, or of the person who*
30 *died. A description of a person upon whom a use of force was*
31 *applied shall be based on the observation and perception of the*
32 *peace officer who used force, and the information shall not be*
33 *requested from the person upon whom force was used, unless*
34 *otherwise required by law. The description shall include, but not*
35 *be limited to, all of the following:*

36 *(A) The race, ethnicity, and age of the person.*

37 *(B) The sexuality and religion of the person, if any is perceived.*

38 *(C) Whether the person had limited English proficiency.*

39 *(D) Whether the person had any perceived mental or physical*
40 *disability, or preexisting injury or medical condition.*

- 1 (E) Whether mental health personnel were called to the scene
- 2 of the use of force or death, and whether the personnel were called
- 3 before or after the use of force or death occurred.
- 4 (F) Whether the person was homeless.
- 5 (G) Whether the person was perceived to be under the influence
- 6 of alcohol or narcotics.
- 7 (5) If applicable, whether the officer previously stopped the
- 8 person upon whom force was used.
- 9 (6) Whether the person was armed, and, if the person was
- 10 armed, with what type of weapon.
- 11 (7) If applicable, details concerning any force used by a peace
- 12 officer, including, but not limited to, all of the following:
- 13 (A) The type of force used.
- 14 (B) Any injuries sustained by the person.
- 15 (C) The length of time between when force was used and when
- 16 the person received medical treatment.
- 17 ~~(b)~~
- 18 (d) The writings described in ~~subdivision~~ subdivisions (a) and
- 19 (b) are public records within the meaning of the California Public
- 20 Records Act (Chapter 3.5 (commencing with Section 6250) of
- 21 Division 7 of Title 1), and are open to public inspection pursuant
- 22 to that act.
- 23 ~~(e)~~
- 24 (e) (1) ~~Notwithstanding Section 10231.5, the~~ The Attorney
- 25 General shall annually ~~provide the Legislature with~~ issue a report
- 26 summarizing the writings received by the Attorney General
- 27 pursuant to ~~subdivision (a). The report shall comply with Section~~
- 28 ~~9795. subdivisions (a) and (b).~~ subdivisions (a) and (b).
- 29 (2) The reports described in paragraph (1) shall separately list
- 30 the statewide total number for each of the data collection criteria
- 31 specified in subdivision (c). The reports described in paragraph
- 32 (1) shall also separately disaggregate the total number for each
- 33 of the data collection criteria specified in subdivision (c) for each
- 34 agency that submits a report to the Attorney General pursuant to
- 35 subdivision (a) or (b).
- 36 ~~(2)~~
- 37 (3) The Attorney General shall make the reports described in
- 38 paragraph (1) available to the public by posting those reports in
- 39 their entirety on the Department of Justice’s Internet Web site.
- 40 The first reports shall be posted no later than July 1, 2018. The

1 *reports shall remain posted on the Department of Justice's Internet*
2 *Web site in order to be available to the public in an ongoing,*
3 *continuous manner.*

4 ~~(d)~~

5 (f) This section does not authorize the disclosure of confidential
6 medical information that may have been submitted to the Attorney
7 General's office in conjunction with the writings described in
8 ~~subdivision (a)~~, subdivisions (a) and (b), except as provided in
9 Part 2.6 (commencing with Section 56) of Division 1 of the Civil
10 Code.

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