

ASSEMBLY BILL

No. 2157

Introduced by Assembly Member Logue

February 18, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2157, as introduced, Logue. Parole and probation officers: firearms: qualifications.

Existing law designates various persons as peace officers, including parole officers of the Department of Corrections and Rehabilitation or the Department of Juvenile Facilities, probation officers of the Division of Juvenile Parole Operations, the Inspector General of the Youth and Adult Correctional Agency or any internal affairs investigator under the authority of the Inspector General, certain other correctional and transportation officers having custodial responsibilities in an institution operated by a probation department, as specified, and other employees designated by the Department of Corrections and Rehabilitation, as specified.

Existing law requires all peace officers generally, who carry firearms, to complete training prescribed by the Commission on Peace Officer Standards and Training (POST). In addition to this requirement, existing law requires persons included in the above class of peace officers, and who are permitted to carry firearms, to qualify the firearm at least quarterly. Existing law requires that this class of peace officers maintain their eligibility to carry concealable firearms off duty.

This bill would remove the additional requirement that parole and probation officers, as described above, be required to qualify their

firearms quarterly and the requirement to maintain their eligibility to carry concealable firearms off duty. Under this bill, general provisions regarding POST training that relate to peace officers in general would continue to apply.

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

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. Except as specified in this section, these peace officers may
9 carry firearms only if authorized and under those terms and
10 conditions specified by their employing agency:

11 (a) A parole officer of the Department of Corrections or the
12 Department of the Youth Authority, probation officer, deputy
13 probation officer, or a board coordinating parole agent employed
14 by the Youthful Offender Parole Board. Except as otherwise
15 provided in this subdivision, the authority of these parole or
16 probation officers shall extend only as follows:

17 (1) To conditions of parole or of probation by any person in this
18 state on parole or probation.

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

21 (3) To the transportation of persons on parole or probation.

22 (4) To violations of any penal provisions of law which are
23 discovered while performing the usual or authorized duties of his
24 or her employment.

25 (5) To the rendering of mutual aid to any other law enforcement
26 agency.

27 For the purposes of this subdivision, “parole agent” shall have
28 the same meaning as parole officer of the Department of
29 Corrections or of the Department of the Youth Authority.

30 Any parole officer of the Department of Corrections, the
31 Department of the Youth Authority, or the Youthful Offender

1 Parole Board is authorized to carry firearms, but only as determined
2 by the director on a case-by-case or unit-by-unit basis and only
3 under those terms and conditions specified by the director or
4 chairperson. The Department of the Youth Authority shall develop
5 a policy for arming peace officers of the Department of the Youth
6 Authority who comprise “high-risk transportation details” or
7 “high-risk escape details” no later than June 30, 1995. This policy
8 shall be implemented no later than December 31, 1995.

9 The Department of the Youth Authority shall train and arm those
10 peace officers who comprise tactical teams at each facility for use
11 during “high-risk escape details.”

12 (b) A correctional officer employed by the Department of
13 Corrections or any employee of the Department of the Youth
14 Authority having custody of wards or the Inspector General of the
15 Youth and Adult Correctional Agency or any internal affairs
16 investigator under the authority of the Inspector General or any
17 employee of the Department of Corrections designated by the
18 Director of Corrections or any correctional counselor series
19 employee of the Department of Corrections or any medical
20 technical assistant series employee designated by the Director of
21 Corrections or designated by the Director of Corrections and
22 employed by the State Department of Mental Health or employee
23 of the Board of Prison Terms designated by the Secretary of the
24 Youth and Adult Correctional Agency or employee of the
25 Department of the Youth Authority designated by the Director of
26 the Youth Authority or any superintendent, supervisor, or employee
27 having custodial responsibilities in an institution operated by a
28 probation department, or any transportation officer of a probation
29 department.

30 (c) The following persons may carry a firearm while not on
31 duty: a parole officer of the Department of Corrections or the
32 Department of the Youth Authority, a correctional officer or
33 correctional counselor employed by the Department of Corrections
34 or any employee of the Department of the Youth Authority having
35 custody of wards or any employee of the Department of Corrections
36 designated by the Director of Corrections. A parole officer of the
37 Youthful Offender Parole Board may carry a firearm while not on
38 duty only when so authorized by the chairperson of the board and
39 only under the terms and conditions specified by the chairperson.
40 Nothing in this section shall be interpreted to require licensure

1 pursuant to Section 12025. The director or chairperson may deny,
2 suspend, or revoke for good cause a person's right to carry a
3 firearm under this subdivision. That person shall, upon request,
4 receive a hearing, as provided for in the negotiated grievance
5 procedure between the exclusive employee representative and the
6 Department of Corrections, the Department of the Youth Authority,
7 or the Youthful Offender Parole Board, to review the director's or
8 the chairperson's decision.

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

18 ~~(e)~~

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

24 ~~(f)~~

25 (e) The Director of Corrections shall promulgate regulations
26 consistent with this section.

27 ~~(g)~~

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

35 ~~(h)~~

36 (g) "Transportation detail" as used in this section shall include
37 transportation of wards outside the facility, including, but not

1 limited to, court appearances, medical trips, and interfacility
2 transfers.

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