

AMENDED IN ASSEMBLY MAY 29, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1968

Introduced by Assembly Member Wieckowski

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, as amended, Wieckowski. Peace officers.

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, or postrelease community supervision of a person in the state on parole, probation, 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.

~~The bill would require that a probation officer or deputy probation officer responsible for a person on probation or postrelease community supervision that is deemed to be high risk pursuant to a risk-based assessment system be authorized to carry a firearm while on duty and~~

~~would provide that this authorization may only be revoked by the chief probation officer for good cause, as provided.~~

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 each chief probation officer to develop a policy for arming probation officers and deputy probation officers who comprise high-risk case loads no later than June 30, 2013, and would require the policy to be implemented no later than December 31, 2013.

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
- 16 agent employed by the Juvenile Parole Board. Except as otherwise

1 provided in this subdivision, the authority of these parole or
2 probation officers shall extend only as follows:

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

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

8 (3) To the transportation of persons on parole, probation, or
9 postrelease community supervision.

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

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

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

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

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

35 (b) A correctional officer employed by the Department of
36 Corrections and Rehabilitation, or of the Department of Corrections
37 and Rehabilitation, Division of Juvenile Justice, having custody
38 of wards or any employee of the Department of Corrections and
39 Rehabilitation designated by the secretary or any correctional
40 counselor series employee of the Department of Corrections and

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

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

31 ~~(d) A probation officer or deputy probation officer responsible~~
32 ~~for a person on probation or postrelease community supervision~~
33 ~~that is deemed to be high risk pursuant to a risk-based assessment~~
34 ~~system shall be granted an authorization to carry a firearm while~~
35 ~~on duty unless that authorization is revoked by the chief probation~~
36 ~~officer for good cause. If that authorization to carry a firearm is~~
37 ~~revoked, the officer shall, upon request, receive a hearing as~~
38 ~~provided for in the negotiated grievance procedure between the~~
39 ~~exclusive employee representative and the county probation~~
40 ~~department to review the chief probation officer's decision.~~

1 (d) Any 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. Each chief probation officer shall develop a policy for
6 arming probation officers and deputy probation officers who
7 comprise high-risk caseloads no later than June 30, 2013. This
8 policy shall be implemented no later than December 31, 2013.

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

24 (g) The secretary shall promulgate regulations consistent with
25 this section.

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

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

37 (j) This section is operative January 1, 2012.

38 SEC. 2. If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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