

ASSEMBLY BILL

No. 2623

Introduced by Assembly Member Allen

February 24, 2012

An act to amend Section 830.38 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2623, as introduced, Allen. State hospitals: peace officers.

Under existing law, peace officers of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services are authorized to carry firearms only as authorized and under terms and conditions specified by their employing agency.

This bill would instead require peace officers of those state hospitals to carry a firearm while performing assigned functions outside of the secure treatment area of the hospital.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Over the years, the patient population in state hospitals has
- 4 changed from virtually all the clients being civil commitments to
- 5 the current population of over 92 percent forensic commitments.
- 6 The majority of these patients have been committed to the state

1 hospitals for heinous and violent crimes against other human
2 beings, including rape, assault with a deadly weapon, and murder.

3 (b) Hospital police officers (HPOs) are employed at the
4 following state hospitals: Patton, Coalinga, Napa, Atascadero, and
5 Metropolitan. HPOs are peace officers pursuant to Section 830.38
6 of the Penal Code, and they perform their duties without a firearm.
7 Each hospital works under the auspices of the State Department
8 of Mental Health.

9 (c) HPOs at each facility have varying roles. HPOs are
10 responsible for enforcing the law on hospital grounds 24 hours a
11 day and seven days a week. Inside each facility is a forensic
12 compound, which is surrounded by an 18-foot fence. Housed within
13 these compounds are forensic patients who, among other things,
14 have been found not guilty by reason of insanity, incompetent to
15 stand trial, and have been transferred from prison for psychiatric
16 treatment.

17 (d) Most HPOs work any one of three shifts during a 24-hour
18 period and may be assigned duties that include patrolling hospital
19 grounds in a vehicle, conducting vehicle stops, pursuing and
20 apprehending escaped patients, providing off-grounds custody to
21 patients, transporting a patient on a compassionate leave visit, or
22 transporting patients off grounds.

23 (e) At Patton and Coalinga State Hospitals, transportation,
24 custody, and perimeter patrol functions outside the secure treatment
25 area are performed by armed correctional officers. HPOs provide
26 these same functions, as well as mutual aid to local law
27 enforcement agencies, at Napa, Metropolitan, and Atascadero State
28 Hospitals.

29 (f) It is the intent of the Legislature in enacting this legislation
30 to provide the surrounding communities of Napa, Metropolitan,
31 and Atascadero State Hospitals with the same level of protection
32 and security that Patton and Coalinga State Hospitals currently
33 enjoy. This legislation shall only apply to functions performed
34 outside the secure treatment area during the prescribed functions
35 in Section 830.38 of the Penal Code.

36 SEC. 2. Section 830.38 of the Penal Code is amended to read:

37 830.38. The officers of a state hospital under the jurisdiction
38 of the State Department of Mental Health or the State Department
39 of Developmental Services appointed pursuant to Section 4313 or
40 4493 of the Welfare and Institutions Code, are peace officers whose

1 authority extends to any place in the state for the purpose of
2 performing their primary duty or when making an arrest pursuant
3 to Section 836 as to any public offense with respect to which there
4 is immediate danger to person or property, or of the escape of the
5 perpetrator of that offense, or pursuant to Section 8597 or 8598 of
6 the Government Code provided that the primary duty of the peace
7 officers shall be the enforcement of the law as set forth in Sections
8 4311, 4313, 4491, and 4493 of the Welfare and Institutions Code.
9 Those peace officers ~~may~~ *shall* carry firearms ~~only if authorized~~
10 ~~and under terms and conditions specified by their employing~~
11 ~~agency while performing assigned functions outside of the secure~~
12 ~~treatment area of the hospital.~~

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