
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 11 **Hearing Date:** April 7, 2015
Author: Beall
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Urgency: No **Fiscal:** Yes
Consultant: JRD

Subject: Peace Officer Training: Mental Health

HISTORY

Source: Author

Prior Legislation: AB 1718 (Hertzberg) — Chapter 95, Statutes of 2000
SB 2049 (Vasconcellos) — Vetoed by Governor in 1998

Support: Association for Los Angeles Deputy Sheriffs; Association of Regional Center Agencies; The Arc and United Cerebral Palsy California Collaboration; California Association of Code Enforcement Officers; California Attorneys for Criminal Justice; California College and university Police Chiefs Association; California Correctional Supervisors Organization; California Medical Association; California Narcotics Officers Association; California Public Defenders Association; California State Lodge, Fraternal Order of Police; County Behavioral Health Directors Association; Disability Rights California; Long Beach Police Officers Association; Los Angeles County Professional Peace Officers Association; Los Angeles Police Protective League; Riverside Sheriffs Association; Sacramento County Deputy Sheriffs' Association; Santa Ana Police Officers Association; Steinberg Institute; United Domestic Workers of America

Opposition: California State Sheriffs' Association

PURPOSE

The purpose of this legislation is to require peace officers to participate in: (1) a 20 hour evidence-based behavioral health classroom training course, as specified, in addition to the basic training course's current hour requirement; and, (2) a 4 hour evidence-based behavioral health training course, as specified, as part of the total hours required for perishable skills training.

Peace Officer Standards and Training

Existing law creates, in the Department of Justice, a Commission on Peace Officer Standards and Training (POST). The POST commission consists of 15 members appointed by the Governor, after consultation with, and with the advice of, the Attorney General and with the advice and consent of the Senate. Racial, gender, and ethnic diversity must be considered for all appointments to the commission. (Penal Code § 13500.)

Existing law provides POST with the following powers:

- To meet at those times and places as it may deem proper.
- To employ an executive secretary and, pursuant to civil service, those clerical and technical assistants as may be necessary.
- To contract with other agencies, public or private, or persons as it deems necessary, for the rendition and affording of those services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.
- To cooperate with and to secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and in performing its other functions.
- To develop and implement programs to increase the effectiveness of law enforcement and when those programs involve training and education courses to cooperate with and secure the cooperation of state-level officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs.
- To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government.
- To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it.
- The commission does not have the authority to adopt or carry out a regulation that authorizes the withdrawal or revocation of a certificate previously issued to a peace officer.
- Except as specifically provided by law, the commission does not have the authority to cancel a certificate previously issued to a peace officer.

(Penal Code § 13503.)

Current law requires POST to endeavor to minimize costs of administration so that a maximum amount of funds can be expended for the purpose of providing training and other services to local law enforcement agencies. (Penal Code § 13505.)

Existing law requires POST to adopt rules establishing minimum standards relating to physical, mental, and moral fitness that govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals, and other specified peace officers. (Penal Code § 13510.)

POST Basic Certificate

Existing law requires every undersheriff or deputy sheriff of a county, any police officer of a city, and any police officer of a district authorized by statute to maintain a police department, and is responsible for the prevention and detection of crime and the general enforcement of the criminal laws of this state, to obtain the basic certificate issued by the Commission on Peace Officer Standards and Training within 18 months of his or her employment in order to continue to exercise the powers of a peace officer after the expiration of the 18-month period. (Penal Code § 832.4(a).)

Existing law requires every peace officer listed in subdivision (a) of Section 830.1, as specified, to obtain the basic certificate issued by the Commission on Peace Officer Standards and Training upon completion of probation, but in no case later than 24 months after his or her employment, in order to continue to exercise the powers of a peace officer after the expiration of the 24-month period. (Penal Code § 832.4 (b).)

Existing regulations require, with limited exceptions:

- Every peace officer listed in Penal Code section 830.1(a), with limited exceptions, to obtain the POST basic certificate in order to continue to exercise peace officer powers.
- Pursuant to Penal Code section 832.4(c), as a condition of continued employment, each police chief, or any other person in charge of a local law enforcement agency, who is appointed on or after January 1, 1999, to possess the POST basic certificate within two years of appointment.
- Every peace officer appointed by a department participating in the POST Program must possess the appropriate basic certificate.

(11 C.C.R. 1011 (2015).)

Existing regulations require applicants for the award of a basic certificate to:

- Be employed as a full-time peace officer by a POST-participating department.
- Completed the Regular Basic Course.¹
- Complete the current employing department's probationary period of not less than 12 months.

(11 C.C.R. 1011 (2015).)

¹ The Regular Basic Course (academy) is the entry-level training requirement for many California peace officers, as specified in POST Regulation 1005. There are 39 POST-certified basic training academies in California. The Standard Format of the Regular Basic Course is delivered in a one-part instructional sequence with a minimum requirement of 664 hours. (<https://post.ca.gov/regular-basic-course.aspx>.)

Legislatively Mandated Basic Training Requirements

Existing law requires the POST basic training course, and other training courses as the commission determines appropriate, to include instruction on the identification and handling of possible carcinogenic materials and the potential health hazards associated with these materials, protective equipment, and clothing available to minimize contamination, handling, and disposing of materials and measures and procedures that can be adopted to minimize exposure to possible hazardous materials. (Health and Safety Code § 1797.187.)

Existing law allows a peace officer, as specified, to purchase, possess, transport, and use tear gas or a tear gas weapon if the person has satisfactorily completed a course of instruction approved by POST in the use of tear gas. (Penal Code § 22820.)

Existing law requires POST to prepare guidelines establishing standard procedures which may be followed by police agencies in the detection, investigation, and response to cases in which a minor is a victim of an act of abuse or neglect prohibited by this code. POST is additionally required to include adequate instruction in these procedures in the course of training leading to the basic certificate issued by POST. (Penal Code § 13517.)

Existing law requires POST to include in the basic training course for law enforcement officers, adequate instruction in the handling of persons with developmental disabilities or mental illness, or both. The course of instruction relating to the handling of developmentally disabled or mentally ill persons must be developed by POST in consultation with appropriate groups and individuals having an interest and expertise in this area. In addition to providing instruction on the handling of these persons, the course must also include information on the cause and nature of developmental disabilities and mental illness, as well as the community resources available to serve these persons. (Penal Code § 13519.2)

Existing law requires POST to implement a course or courses of instruction for the training of law enforcement officers, as specified, in California in the handling of domestic violence complaints. The course or courses of instruction must stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. (Penal Code § 13519.)

Existing law requires every city police officer or deputy sheriff at a supervisory level and below who is assigned field or investigative duties to complete an elder and dependent adult abuse training course certified by POST. The training must, at a minimum, include the following subjects: (1) Relevant laws; (2) Recognition of elder and dependent adult abuse; (3) Reporting requirements and procedures; (4) Neglect of elders and dependent adults; (5) Fraud of elders and dependent adults; (6) Physical abuse of elders and dependent adults; (7) Psychological abuse of elders and dependent adults; (8) The role of the local adult protective services and public guardian offices; and, (9) The legal rights of, and remedies available to, victims of elder or dependent adult abuse. (Penal Code § 13515.)

Existing law requires every city police officer, sheriff, deputy sheriff, marshal, deputy marshal, peace officer member of the Department of the California Highway Patrol, and police officer of a district authorized by statute to maintain a police department, except those whose duties are primarily clerical or administrative, to meet the training standards prescribed by the Emergency Medical Services Authority for the administration of first aid and cardiopulmonary resuscitation. (Penal Code § 13518.)

Existing law requires POST to implement a course or courses of instruction to provide ongoing training to the appropriate peace officers on methods of gang and drug law enforcement. (Penal Code § 13519.5.)

Existing law requires POST to develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes. (Penal Code § 13519.6.)

Existing law requires every law enforcement officer testifying as to hearsay statements to either have five years of law enforcement experience or have completed a training course certified by the POST that includes training in the investigation and reporting of cases and testifying at preliminary hearings. (Penal Code § 872.)

Existing law requires POST to implement a course or courses of instruction for the training of law enforcement officers and law enforcement dispatchers, as specified, in the handling of missing person and runaway cases. (Penal Code §13519.1.)

Existing law requires POST to develop and disseminate guidelines and training for all law enforcement officers, as specified, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines are required to stress understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment. (Penal Code § 13519.4.)

Existing law requires POST to implement a course or courses of instruction for the training of law enforcement officers in the handling of acts of civil disobedience and adopt guidelines that may be followed by police agencies in responding to acts of civil disobedience. (Penal Code § 13514.5.)

Existing law requires POST to implement a course or courses of instruction for the regular and periodic training of law enforcement officers in the handling of high-speed vehicle pursuits. (Penal Code § 13519.8.)

Existing law requires POST to prepare guidelines establishing standard procedures which may be followed by police agencies in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children, including, police response to, and treatment of, victims of these crimes. The course of training leading to the basic certificate issued by the commission must include adequate instruction in these procedures. (Penal Code § 13516.)

Existing law requires POST to develop complaint guidelines to be followed by city police departments, county sheriffs' departments, districts, and state university departments, for peace officers who are victims of sexual harassment in the workplace. The course of basic training for law enforcement officers must include instruction on sexual harassment in the workplace. (Penal Code § 13519.7.)

Existing law allows peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, the Department of Justice, or the Department of Corrections and Rehabilitation, to possess short-barreled rifles and short-barreled shotguns when on duty and the use is authorized by the agency and is within the course and scope of their duties, and the officers have completed a training course in the use of these weapons certified by POST. (Penal Code § 33220.)

Existing law requires POST to establish, for those specified peace officers, a course on the nature of sudden infant death syndrome and the handling of cases involving the sudden deaths of infants. The course must include information on the community resources available to assist families and child care providers who have lost a child to sudden infant death syndrome. Officers must complete a course in sudden infant death syndrome prior to the issuance of the POST basic certificate. (Penal Code § 13519.3.)

Existing law requires the Office of Emergency Services, in coordination with the State Fire Marshal's office, the Department of the California Highway Patrol, the Commission on Peace Officer Standards and Training, the Emergency Medical Services Authority, and all other interested state agencies with designated response roles in the state emergency plan, to jointly develop an approved course of instruction for use in training all emergency response personnel, consisting of the concepts and procedures associated with the standardized emergency management system. (Government Code § 8607.)

Existing law permits a peace officer who has successfully completed a course or courses of instruction, approved by POST, in the investigation of traffic accidents may prepare, in triplicate, on a form approved by the Judicial Council, a written notice to appear when the peace officer has reasonable cause to believe that any person involved in a traffic accident has violated a provision of this code not declared to be a felony or a local ordinance and the violation was a factor in the occurrence of the traffic accident. (Vehicle Code § 40600.)

This bill would require POST to include in its basic training course an evidence-based behavioral health classroom training course to train law enforcement officers to recognize, deescalate, and refer persons with mental illness or intellectual disability who are in crisis. The bill would require that this evidence-based behavioral health classroom training course be 20 hours long and be in addition to the basic training course's current hour requirement.

Continuing Training

Existing law requires POST to establish and keep updated a continuing education classroom training course relating to law enforcement interaction with mentally disabled persons. The training course is required to be developed in consultation with appropriate community, local, and state organizations and agencies that have expertise in the area of mental illness and developmental disability, and with appropriate consumer and family advocate groups. POST is required to make the course available to law enforcement agencies in California. This course must consist of classroom instruction and utilize interactive training methods to ensure that the training is as realistic as possible. The course must include, at a minimum, core instruction in the following: (1) the cause and nature of mental illnesses and developmental disabilities; (2) how to identify indicators of mental disability and how to respond appropriately in a variety of common situations; (3) conflict resolution and de-escalation techniques for potentially dangerous situations involving mentally disabled persons; (4) appropriate language usage when interacting with mentally disabled persons; (5) alternatives to lethal force when interacting with potentially

dangerous mentally disabled persons; (6) community and state resources available to serve mentally disabled persons and how these resources can be best utilized by law enforcement to benefit the mentally disabled community; and, (7) the fact that a crime committed in whole or in part because of an actual or perceived disability of the victim is a hate. (Penal Code § 13515.25.)

Existing regulations require all peace officers (except reserve officers) below the middle management position and assigned to patrol, traffic, or investigation who routinely effect the physical arrest of criminal suspects are required to complete Perishable Skills and Communications training. In-lieu of completing the training, the requirement may be met by successfully passing a presenter-developed test that measures the approved training objectives. Perishable skills training consists of a minimum of 12 hours in each two-year period. Of the total 12 hours required, a minimum of 4 hours of each of the three following topical areas must be completed: 1. Arrest and Control; 2. Driver Training/Awareness or Driving Simulator; and, 3. Tactical Firearms or Force Options Simulator. (11 C.C.R. 1005 (2015).)

The bill would require POST to establish and keep updated an evidence-based behavioral health training course as part of its perishable skills training. The bill would require that this evidence-based behavioral health training course be a minimum of 4 consecutive hours every 4 years.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity."(Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Legislation

According to the author:

Day by day there is a growing recognition throughout law enforcement nationwide of the value of behavioral health training for officers. SB 11 responds to the public's heightened distrust by mandating stronger evidence-based behavioral health training that has proven to reduce volatile confrontations between peace officers and people with mental illnesses or intellectual disabilities. Equally important, the bill recognizes California's cultural diversity and requires training to be culturally appropriate.

Specifically, SB 11 mandates:

- 20 hours additional hours of universal evidence-based behavioral health classroom-training and instructor led active learning such as scenario-based training in the Academy so that all officers can recognize, de-escalate and refer people with mental illnesses who are in crisis.
- Designates behavioral health training as a perishable skill under continuing education and mandates peace officers to take 4 hours of continuing education regarding persons with mental illness once every four years.

The existing California Peace Officer Standards and Training curriculum for prospective officers mandates 664 hours (16 weeks) of training. This includes 72 hours on how to handle firearms and pepper spray; 40 hours for investigative report writing; 40 hours on fitness; and 40 hours on driving -- but just six hours of mental health training. This training is not narrowly focused on matters pertaining to individuals with mental health disabilities but covers all types of disabilities (physical, sensory, cognitive, developmental and mental) and includes an overview of federal and state disability laws. This is a daunting amount of material that does not include a mandate for instruction of best practice training techniques like de-escalation techniques and crisis intervention.

Furthermore, there are no mandates that require behavioral health training for advanced officer continuing education coursework and no mandatory perishable skills behavioral health training.

According to POST representatives, there are currently 38 mental health training courses that have been certified by POST available statewide to law enforcement officers and dispatchers. Although training resources exist, there is no standardized mental health training curriculum statewide other than the mandatory 6 hours in the Academy. The lack of uniformity creates a patchwork of training programs offered by California law enforcement agencies. Some agencies offer robust training programs while others offer far less. Every officer, from Susanville to San Diego, needs to be provided with the most current effective tools to interact safely with people with mental illnesses especially given the frequency of contacts with people with a mental illness (POST estimates 10-15%).

2. Effect of the Legislation

Currently, law enforcement officers receive six hours of POST approved training on how to interact with persons with mental illnesses and developmental disabilities during their Regular Basic Training course, as required by Penal Code section 13519.2. While there is no mandatory continuing education requirement, POST offers a variety of courses relating to mental health. According to information provided by POST, there are currently 38 mental health certified courses available to California law enforcement. These courses range from four to forty hours.

According to a recent study conducted by Disability Rights California, who support this legislation:

Frequently, police officers respond to mental health related calls and incidents, many of which can be time consuming. At least one jurisdiction reported to Disability Rights California that mental health calls constitute up to one third of all calls for service that they receive. In 2008, the federal Bureau of Justice Affairs reported that “behaviors resulting in mental illness are a factor in 3 to 7 percent of all law enforcement calls for service.” And more recent media accounts say that these calls are on the rise. More than 80 percent of agencies responding to Disability Rights California’s survey reported that officers spend more time on these calls than other calls for service. Typical scenarios that trigger a police response:

- A father calls 911 because he is not sure who else to call or how to access immediate help after his adult son stops taking his medication and refuses to come out of his bedroom for several days.
- A woman perches on the ledge of a freeway overpass, crying and repeating that she feels like life is hopeless and she wants to jump.
- A store owner calls the police about a disheveled and dirty man pacing outside of his storefront, yelling profanities, talking to an unseen person, and refusing to leave the premises.

- A neighbor calls the police after he hears his next door neighbor, who lives alone, screaming and breaking things.
- On a hot summer day, officers encounter a homeless man who appears emaciated, shuffling behind a shopping cart laden with trash. He is wearing a down parka over layers of clothes, despite the 90 degree heat.

(An Ounce of Prevention: Law Enforcement Training and Mental Health Crisis Intervention, Disability Rights California, August 2014.)

According to those in support of this legislation, officers need to be better prepared to respond appropriately when dealing with individuals in scenarios like these. To this end, this legislation would increase the amount of behavioral health training that officers receive during regular basic training and would mandate four consecutive hours of behavioral health training every four years.

SHOULD OFFICERS BE REQUIRED TO HAVE 20 HOURS OF BEHAVIORAL HEALTH TRAINING AS PART OF THE REGULAR BASIC TRAINING COURSE?

SHOULD OFFICERS BE REQUIRED TO HAVE FOUR CONSECUTIVE HOURS OF CONTINUING BEHAVIORAL HEALTH TRAINING EVERY FOUR YEARS?

3. Issues and Concerns

Evidence-Based Training

SB 11 would require that officers be provided evidence-based behavioral health classroom training course to train them to recognize, deescalate, and refer persons with mental illness or intellectual disability who are in crisis. Requiring evidence-based training could limit the use of high-quality, promising behavioral health training.² Members may wish to recommend an amendment that would permit “promising evidence-based or evidence-based training.”

Regular Basic Training Course: Definition and Hours

This legislation requires the “basic training course for law enforcement officers” include 20 hours of behavior health training. The author clearly intends to require additional training for officers who are required to go through Regular Basic Training. To ensure that the author’s intent is made clear in the legislation, members may wish to consider an amendment that requires officers to have an additional 20 hours of behavioral health training “in the course of training leading to the basic certificate issued by POST.”

This legislation, additionally, requires that the behavioral health training be 20 hours long. As drafted, this legislation would require exactly 20 hours of additional training, members may wish to consider an amendment to give POST the flexibility to go beyond 20 hours, if necessary.

² U.S. Department of Health and Human Services (HHS) has defined a promising practice as one with at least preliminary evidence of effectiveness in small-scale interventions or for which there is potential for generating data that will be useful for making decisions about taking the intervention to scale and generalizing the results to diverse populations and settings.

Continuing Training

Perishable skills training is mandated in POST regulations, which require a certain number of hours every two years. Given that the training required by this legislation has different timeframes (four consecutive hours every four years), members may wish to consider an amendment making the four consecutive hours of behavioral health training every 4 years a continuing education requirement, similar to the domestic violence continuing education requirement described in Penal Code 13519.

4. Argument in Support

According to County Behavioral Health Directors Association:

There is a growing recognition among law enforcement nationwide of the need for more behavioral health training for officers. The existing California Peace Officer Standards and Training (POST) curriculum includes only 6 hours of mental health training out of a total of 664 hours of mandated training for peace officers, which is clearly not sufficient. SB 11 would require POST to include in its basic training course an evidence-based behavioral health classroom training course to train law enforcement officers to recognize, deescalate, and refer persons with mental illness or intellectual disability who are in crisis. The bill would require that this evidence-based behavioral health classroom training course be 20 hours long and be in addition to the basic training course's current hour requirement. The bill would also require POST to establish an evidence-based behavioral health training course as part of its perishable skills training under its continuing professional education requirement.

5. Argument in Opposition

According to the California State Sheriffs' Association:

On behalf of the California State Sheriffs' Association (CSSA), we must respectfully oppose Senate Bill 11, which would mandate increased training for law enforcement officers on mental health issues.

To be clear, CSSA recognizes the importance of appropriate training of law enforcement officers. We also acknowledge that mental health issues have grown in significance in recent years. California peace officers are among the best trained in the nation because of the rigorous and comprehensive education and training regimen overseen by the Commission on Peace Officer Standards and Training (POST). Proper training prepares officers for the daily dangers of their jobs, builds trust with the community members protected by law enforcement, and provides appropriate standards for peace officer behavior.

Currently, significant training on mental health issues is required of prospective and employed peace officers. The basic POST academy includes mandatory training on mental health issues and includes a scenario-based test that must be passed in order to graduate from an academy. Additionally, law enforcement agencies around the state offer ongoing POST-certified crisis intervention training

on mental health and require their officers to complete additional mental health training in addition to the state-mandated minimums.

SB 11 would require 20 additional hours of training as part of basic peace officer education and four additional hours of perishable skills training on mental health issues. While CSSA does not necessarily oppose alterations to training requirements, this bill simply adds a time-based requirement without the benefit of knowing where gaps and deficiencies in existing training mandates may exist. More training for the sake of more training may not be beneficial and may come at the expense of other, more necessary training.

POST, in conjunction with law enforcement, is in the process of examining mental health training courses and requirements to ascertain if there are issues that need to be addressed. Although we appreciate the desire to improve interactions between law enforcement and persons with mental health issues, SB 11 represents a premature, unfunded mandate that offers no guarantee of providing the appropriate training to the right officers.

-- END --