
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 450 **Hearing Date:** June 28, 2016
Author: McCarty
Version: June 22, 2016
Urgency: No **Fiscal:** No
Consultant: JRD

Subject: *Firearms: Concealed Carry License*

HISTORY

Source: Author

Prior Legislation: None known

Support: Unknown

Opposition: Unknown

Assembly Floor Vote: Not Relevant

PURPOSE

The purpose of this legislation is to require a sheriff, chief, or other head of a municipal police department issuing a concealed carry permit to charge an applicant for the license a fee sufficient to cover the reasonable costs of issuing and enforcement of the license.

Existing law states that a county sheriff or municipal police chief may issue a license to carry a handgun capable of being concealed upon the person upon proof of all of the following:

- The person applying is of good moral character (Penal Code §§ 26150 and 26155(a)(1));
- Good cause exists for the issuance (Penal Code §§ 26150 and 26155(a)(2));
- The person applying meets the appropriate residency requirements (Penal Code §§ 26150 and 26155(a)(3)); and,
- The person has completed the appropriate training course, as specified. (Penal Code §§ 26150 and 26155(a)(4)).

Existing law states that a county sheriff or a chief of a municipal police department may issue a license to carry a concealed handgun in either of the following formats:

- A license to carry a concealed handgun upon his or her person (Penal Code §§ 26150 and 26155(b)(1)); or,

- A license to carry a loaded and exposed handgun if the population of the county, or the county in which the city is located, is less than 200,000 persons according to the most recent federal decennial census. (Penal Code §§ 26150 and 26155(b)(2).)

Existing law provides that a chief of a municipal police department shall not be precluded from entering into an agreement with the sheriff of the county in which the city is located for the sheriff to process all applications for licenses, or renewal of licenses, to carry a concealed handgun upon the person. (Penal Code § 26155(b)(3).)

Existing law provides that a license to carry a concealed handgun is valid for up to two years, three years for judicial officers, or four years in the case of a reserve or auxiliary peace officer. (Penal Code § 26220.)

Existing law provides that a license may include any reasonable restrictions or conditions that the issuing authority deems warranted. (Penal Code § 26200.)

Existing law states that the fingerprints of each applicant are taken and submitted to the Department of Justice (DOJ). Provides criminal penalties for knowingly filing a false application for a concealed weapon license. (Penal Code §§ 26180 and 26185.)

Existing law requires the fingerprints of each applicant for a license to carry a concealed handgun be taken and two copies on forms prescribed by the DOJ and be forwarded to DOJ. Upon receipt of the fingerprints and the required fee, DOJ must promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office, including information as to whether the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. (Penal Code § 26185(a).)

Existing law states that if the license applicant has previously applied to the same licensing authority for a license to carry firearms and the applicant's fingerprints and fee have been previously forwarded to DOJ, the licensing authority must note the previous identification numbers and other data that would provide positive identification in the files of DOJ on the copy of any subsequent license submitted DOJ and no additional application form or fingerprints are required. (Penal Code § 26185(b).)

Existing law states that if a license applicant has a license issued and the applicant's fingerprints have been previously forwarded to DOJ the licensing authority must note the previous identification numbers and other data that would provide positive identification in the files of DOJ on the copy of any subsequent license submitted to DOJ and no additional fingerprints are required. (Penal Code § 26185(c).)

Existing law states that each applicant for a new license to carry a concealed handgun, or for the renewal of a license, must pay at the time of filing the application a fee determined by DOJ. The fee cannot exceed the application processing costs of DOJ. (Penal Code § 26190(a).)

Existing law allows the licensing authority of any city, city and county, or county to charge an additional fee in an amount equal to the actual costs for processing the application for a new license, including any required notices, excluding fingerprint and training costs, but in no case to exceed one hundred dollars (\$100), and must transmit the additional fee, if any, to the city, city and county, or county treasury. The first 20 percent of this additional local fee may be collected

upon filing of the initial application. The balance of the fee shall be collected only upon issuance of the license. (Penal Code § 26190(b).)

Existing law allows the licensing authority to charge an additional fee, not to exceed twenty-five dollars (\$25), for processing the application for a license renewal, and shall transmit an additional fee, if any, to the city, city and county, or county treasury. (Penal Code § 26190(c).)

This bill requires a sheriff, chief, or other head of a municipal police department issuing a concealed carry license to charge an applicant for the license a fee sufficient to cover the reasonable costs of issuing and enforcement of the license.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past several 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 December of 2015 the administration reported that as "of December 9, 2015, 112,510 inmates were housed in the State's 34 adult institutions, which amounts to 136.0% of design bed capacity, and 5,264 inmates were housed in out-of-state facilities. The current population is 1,212 inmates below the final court-ordered population benchmark of 137.5% of design bed capacity, and has been under that benchmark since February 2015." (Defendants' December 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).) One year ago, 115,826 inmates were housed in the State's 34 adult institutions, which amounted to 140.0% of design bed capacity, and 8,864 inmates were housed in out-of-state facilities. (Defendants' December 2014 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 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:

Current state law prohibits anyone from carrying a concealed weapon unless that person applies for and obtains a permit. The issuing authority, usually a county sheriff, may charge a fee to process the permit application. There is no guidance on how much to charge for the application fee. Given this vagueness, it is unsurprising that different issuing authorities have interpreted the law differently. This has caused unequal treatment across California and budget shortfalls for local governments. Sacramento County is facing a shortfall of approximately \$250,000 caused by inadequate CCW application fees and is facing cuts to essential programs.

This bill seeks to remedy this vagueness by requiring the issuing authority to charge a fee for the permit which fully covers the cost of processing and enforcing concealed weapon permits.

2. Current Events

According to a recent Sacramento Bee editorial:

Sacramento County Sheriff Scott Jones seems to be within his rights in issuing concealed weapons permits to law-abiding county residents essentially for the asking. But taxpayers shouldn't be asked to foot the bill for his politically popular perk, and that's what's happening.

State law dictates the amount that sheriffs can charge to issue concealed weapons permits, essentially \$100, plus the cost of fingerprinting. The law also allows local officials to raise fees by no more than the Consumer Price Index. Sacramento County hasn't done so, and at the very least, it should do that.

Even if the county were to take that step, the cost of issuing concealed-carry permits evidently exceeds inflation. According to Jones' budget numbers, the staffing cost to grant permits will run about \$461,000 this year. But the fees charged to permit seekers will cover less than half that, meaning that taxpayers must pick up the remainder, almost \$239,000. Worse, the cost to Sacramento taxpayers more than doubled between the 2014-15 fiscal year and the current fiscal year.

The California State Sheriffs' Association has not asked the Legislature for authority to raise the fees.

Kern County Sheriff Donny Youngblood, president of the sheriffs' association, told an editorial board member that he has "no appetite" to make concealed-carry permits more expensive. We understand the reluctance. Sheriffs, too, must get elected.

But the Legislature could and should force the issue, especially this month as the new budget is being written. Lawmakers ought to insert language into one of the budget-related trailer bills making clear that local authorities can charge the full cost of issuing concealed-carry permits.

Under Jones, the number of permits has soared, from 350 when he took office five years ago to nearly 8,000 now, making Sacramento County home to the state's third-largest number of concealed-carry permits, after Fresno and Orange counties.

Jones assigns one full-time deputy to the task, and as many as 10 on-call employees, depending on demand. Permit seekers pay a \$20 application fee, \$80 upon issuance, and \$122 for fingerprinting. A combined fee of \$222 hardly seems exorbitant.

Jones said in an email that issuing permits "is not a business enterprise," and that when the department tried to make the operation cost-neutral, the "delays and backup were untenable." But unless a gun owner is in immediate danger – and we doubt that all 8,000 of the Sacramento County residents with permits are being actively threatened – what exactly is the rush?

Jones also invokes a note of populism, saying in an email that "raising fees would have a disproportionate impact on our lower income residents." Even if that's true – and we're guessing people who can afford guns and ammunition are not destitute – sheriffs could, if authorized by the Legislature, impose surcharges on wealthier gun owners to help the lower-income permit seekers.

In Sacramento County's \$3.6 billion budget, \$239,000 is a blip. But as they write their new budget, supervisors should consider other uses for that \$239,000. Supervisor Phil Serna, for one, has cited a need for a Spanish-speaking psychologist. Shelter providers could use \$239,000 to find housing for homeless people. Jones could hire additional deputies who are well-trained in the use of firearms.

Jones defends his liberal gun permit policy, telling The Sacramento Bee's Hudson Sangree and Phillip Reese that allowing people to carry concealed weapons empowers them "to feel like they are safer in a world that is increasingly not safe."

We disagree. We do not feel safer now that one in every 135 Sacramento County residents has a concealed-carry permit. And we certainly don't believe taxpayers should pay for the gun owners' privilege.

(Sheriff Jones' liberal gun permit policy costs all taxpayers, Sacramento Bee Editorial Board, Sacramento Bee, May 31, 2016, <http://www.sacbee.com/opinion/editorials/article/81014202.html>.)

3. Effect of Legislation

Existing law *allows* the licensing authority of any city, city and county, or county to charge a fee in an amount equal to the actual costs for processing the application for a new CCW up to one hundred dollars. (Penal Code § 26190(b).) The intent of this legislation is to *require* that the licensing authority charge “a fee sufficient to cover the reasonable costs of issuing and enforcement of the license.” That said, this legislation does not delete or modify the existing provision that allows the licensing authority to charge a fee-- meaning that there would be one section in the Penal Code with a permissive fee and a different section with a mandatory fee.

Members may wish to recommend the following amendments: (1) delete the language of the legislation; (2) modify existing law to make the CCW fee mandatory; (3) delete the \$100 limit on the CCW fee; and, (4) provide that the fee shall be sufficient to not only cover the reasonable costs of issuing the CCW, but also the cost of enforcement.

-- END --