
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 735 **Hearing Date:** April 28, 2015
Author: Galgiani
Version: February 27, 2015
Urgency: No **Fiscal:** Yes
Consultant: JRD

Subject: *Postretirement Law Enforcement Officer Cold Case Grant Program*

HISTORY

Source: Author

Prior Legislation: None known

Support: Association of Deputy District Attorneys; Association for Los Angeles Deputy Sheriffs; California Association of Code Enforcement Officers; California College and University Police Chiefs Association; California Narcotic Officers Association; Crime Victims United; Los Angeles Police Protective League; Riverside Sheriffs Association

Opposition: None known

PURPOSE

This purpose of this bill is to create and fund the Postretirement Law Enforcement Officer Cold Case Grant Program, as specified.

Existing law defines “peace officer,” as specified. (Penal Code § 830, *et seq.*)

Existing law states that a retired person cannot serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except:

- A person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.
- Appointments cannot exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system, as specified.

- Any retired person is not eligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with a public employer, as specified.
- A retired person is not eligible to be employed pursuant for a period of 180 days following the date of retirement unless he or she meets specified conditions.

(Government Code § 7522.56.)

This bill codifies findings declaring that retired law enforcement officers are an invaluable resource for the investigation and solution of unsolved cases, but these officers are frequently unable to serve in this capacity because of lack of available funding for local law enforcement agencies for this purpose and because of state limits on postretirement service by public employees.

This bill establishes the Postretirement Law Enforcement Officer Cold Case Grant Program and would allow a local law enforcement agency to apply to the Department of Justice (DOJ) for a grant to fund the hiring of a retired law enforcement officer or officers dedicated to work on unsolved cases, including, but not limited to, the following:

- Collection and recovery of evidence, including DNA samples;
- Interviewing witnesses and people of interest;
- Researching unsolved cases to determine potential connections and leads;
- Providing knowledge and expertise in evaluating criminal behavior relevant to particular cases; or
- Data entry and analysis.

This bill requires the DOJ to administer the grant program established in this legislation and to establish the guidelines it deems necessary for the administration of the program. The guidelines must set forth the terms and conditions upon which the department is prepared to offer grant of funds. It also requires all applications be reviewed and evaluated by the DOJ and grants be awarded on the basis of need, consistency with the requirements of this chapter, and department rules and guidelines.

This bill requires grant funds received by applicants be used to fund officer positions and not to supplant local funds. Administrative costs associated with a position funded by the grant program shall be absorbed by the applicant.

This bill appropriates funds from the General Fund to the DOJ for the purpose of implementing the Postretirement Law Enforcement Officer Cold Case Grant Program.¹

This bill states that service, compensation, or any other limits on a person receiving a pension benefit do not apply to a law enforcement officer whose position is funded by a grant awarded pursuant to this chapter.

¹ The legislation does not currently state the amount of funding that will be appropriated.

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 Legislation

According to the Author:

Currently, nationwide there are as many as 100,000 active missing persons cases at any given time. According to the National Missing and Unidentified Persons

System at the United States Department of Justice, 4,400 unidentified remains are found every year and over 1,000 of these remain unidentified after one year. There are up to 40,000 human remains that are unidentified at this time. (<http://www.namus.gov/about.htm>).

Senate Bill 735 would establish the Postretirement Law Enforcement Officer Cold Case Grant Program for the purpose of funding the hiring of retired law enforcement officers whose employment would be dedicated to work on unsolved cases. Retired officers have a unique skill set with regards to these cases. Many passionate members of law enforcement have worked these cold cases for years and have an in-depth understanding of the nuances involved in this line of work.

In order to assist in bringing lost loved ones home to their families, California should look to maximize the potential of using retired officers.

2. Effect of Legislation

This legislation establishes the Postretirement Law Enforcement Officer Cold Case Grant Program and would allow a local law enforcement agency to apply to the DOJ for a grant to fund the hiring of a retired law enforcement officer or officers dedicated to work on unsolved cases. While local law enforcement agencies can currently employ retired peace officers, there are limitations on when they can be hired and these peace officers are only allowed to work 960 hours per fiscal year. This legislation exempts retired annuitants, who are paid with grant money from the new program, from these limitations.

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