
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 1168 **Hearing Date:** June 23, 2015
Author: Salas
Version: June 16, 2015
Urgency: No **Fiscal:** No
Consultant: JRD

Subject: *Peace Officers: Basic Training Requirements*

HISTORY

Source: David Robinson, Kings County Sheriff and California State Sheriffs' Association

Prior Legislation: AB 574 (Villaraigosa)—Chapter 950, Statutes of 1996

Support: None known

Opposition: Unknown

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this legislation is to exempt a custodial peace officer, who has completed the regular basic course and has maintained his or her perishable skills training, from requalification requirements if he or she has been continuously employed as a custodial peace officer for a period not exceeding five years by the agency appointing that officer to a non-custodial position, as specified.

Officer Classifications

Existing law states that any sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county, any chief of police of a city or chief, director, or chief executive officer of a consolidated municipal public safety agency that performs police functions, any police officer, employed in that capacity and appointed by the chief of police or chief, director, or chief executive of a public safety agency, of a city, any chief of police, or police officer of a district, including police officers of the San Diego Unified Port District Harbor Police, authorized by statute to maintain a police department, any marshal or deputy marshal of a superior court or county, any port warden or port police officer of the Harbor Department of the City of Los Angeles, or any inspector or investigator employed in that capacity in the office of a district attorney, is a peace officer. The authority of these peace officers extends to any place in the state, as follows:

- As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision that employs the peace officer or in which the peace officer serves.

- Where the peace officer has the prior consent of the chief of police or chief, director, or chief executive officer of a consolidated municipal public safety agency, or person authorized by him or her to give consent, if the place is within a city, or of the sheriff, or person authorized by him or her to give consent, if the place is within a county.
- As to any public offense committed or which there is probable cause to believe has been committed in the peace officer's presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of the offense.

(Penal Code § 830.1(a).)

Existing law states that any deputy sheriff of the County of Los Angeles, and any deputy sheriff of the Counties of Butte, Calaveras, Colusa, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Mariposa, Mendocino, Plumas, Riverside, San Benito, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, and Yuba who is employed to perform duties exclusively or initially relating to custodial assignments with responsibilities for maintaining the operations of county custodial facilities, including the custody, care, supervision, security, movement, and transportation of inmates, is a peace officer whose authority extends to any place in the state only while engaged in the performance of the duties of his or her respective employment and for the purpose of carrying out the primary function of employment relating to his or her custodial assignments, or when performing other law enforcement duties directed by his or her employing agency during a local state of emergency. (Penal Code § 830.1(c).)

Penal Code 832 Arrest and Firearms Course

Existing law requires every peace officer, as specified, to satisfactorily complete an introductory the Commission on Peace Officers Standards and Training (POST) prescribed introductory training course and that satisfactory completion of the course is to be demonstrated by passage of an appropriate POST developed or approved examination. (Penal Code § 832.)

Existing regulation requires limited function peace officers, including an officer that performs only a custodial function, to satisfactorily meet the training requirements of the Penal Code 832 Arrest and Firearms Course. (POST Administrative Manual §§ B-1001, B-1005.)

Existing regulation requires Penal Code 832 training to be presented as two components and individuals may elect to complete Arrest, Firearms, or both. The total minimum hourly requirement for each Penal Code 832 Arrest and Firearms component is 64 hours and includes the following: 40 hours for the arrest component and 24 hours for the firearms component. (POST Administrative Manual § D-1-7.)

The Regular Basic Course

Existing law requires, with limited exceptions, any sheriff, 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, to successfully complete a course of training prescribed by the

POST before exercising the powers of a peace officer, except while participating as a trainee in a supervised field training program approved by POST. (Penal Code § 832.3.)

Existing law states that requalification is required for any individual who seeks appointment or reappointment to a position for which the Regular Basic Course or the Specialized Investigators' Basic Course is required when the individual has not previously served in a California peace officer position with qualifying service¹ and has:

- Successfully completed a POST-certified Regular Basic Course or Specialized Investigators' Basic Course; and,
- Has a three-year-or-longer break from the last date of successful completion of the Regular Basic Course or Specialized Investigators' Basic Course, or from the date the basic course waiver was granted, whichever is most recent.

(11 C.C.R. 1008 (2015).)

Existing law states that when requalification is required it must be achieved before an individual may exercise peace officer powers. Upon successful requalification the individual is eligible, for up to three years, to be appointed or reappointed as a California peace officer. An officer can requalify by:

- Repeating and successfully completing the appropriate basic course;
- Successfully completing a POST-certified Requalification Course; or,
- Successfully completing a POST-approved alternative job-related requalification procedure conducted by a presenter of a POST-certified Regular Basic Course. The individual 1) must have previously satisfied the Regular Basic Course training requirement; 2) is for the first time obtaining law enforcement employment after a three-year-or-longer break since successful completion of the Regular Basic Course; and 3) the individual's department has obtained prior written approval from POST for the use of an alternative procedure and verifies that the individual is currently proficient and meets or exceeds minimum performance standards established by the Commission.

(11 C.C.R. 1008 (2015).)

This bill would exempt a custodial peace officer, who has completed the regular basic course and has maintained his or her perishable skills training, from requalification requirements if he or she has been continuously employed as a custodial peace officer for a period not exceeding five years by the agency making the appointment. This provision would sunset January 1, 2019.

¹ Qualifying service is defined as serving in a California peace officer position for which a POST-certified Regular Basic Course or Specialized Investigators' Basic Course is required by law. 830.1(c) custodial officers are not required to have the Regular Basic Course. Given this, time in a 830.1(c) custodial officer position is not considered qualifying service.

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. Author's Statement

According to the author:

Prior to becoming employed as a peace officer in California, applicants are required to complete a basic training course and pass an examination. If a person does not

become employed as a peace officer within 3 years of passing the examination, or has a break in service of 3 years or longer, they must repeat their training and retake the examination.

Many peace officers begin their public safety service with custodial or detention assignments, performing duties like working in courtrooms, transporting inmates, conducting criminal investigations, testifying in court, attending training courses, and preparing reports. While considered peace officers under California law, custodial and detention deputy positions have limited peace officer powers.

Custodial and detention deputies often aim to transfer to patrol assignments with full peace officer powers. Even though they are employed, if these deputies do not find patrol positions within 3 years they must repeat their training and examination. Openings for patrol positions are rare, particularly in rural regions of the state, often making the three-year requalification an impediment to career advancement.

Assembly Bill 1168 would, until January 2019, extend the validity of the basic training courses and examinations for a custodial or detention deputy who has been continuously employed as a peace officer for five years.

2. Effect of Legislation

In California there are a variety of peace officer classifications, including a “regular officer” and a “limited function peace officer.”

A “Regular Officer” is a sheriff, undersheriff, or deputy sheriff of a county, a police officer of a city, a police officer of a district authorized by statute to maintain a police department, a police officer of a specified department or district, or a peace officer member of the California Highway Patrol. (11 CCR 1001 (2015).) As stated above, these officers, otherwise known as 830.1(a) officers, are required to complete regular basic training. 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>.) These officers are, additionally, required to satisfactorily complete 24 or more hours of POST-qualifying training every two-years, including a minimum of 12 hours of perishable skills training. 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).) If an officer in this classification has a break in service for more than three years, he or she would generally have to requalify prior to being appointed to an 830.1(a) position. Similarly, if a person took the regular basic training course and was not able to find employment within three years, he or she would have to requalify in order to be appointed to a position.

In contrast, a “Limited Function Peace Officer” is a deputy sheriff, regularly employed and paid as such, of a county, a police officer of a city, a police officer of a district authorized by statute to maintain a police department, to be a peace officer as described in Penal Code section 830.1(c), and is employed to perform duties other than the prevention and detection of crime and the general enforcement of the criminal laws of the state. (*Id.*) These officers must take the introductory training course prescribed in Penal Code section 832. According to POST, this course is the “entry-level training requirement for many California peace officers.” (<http://post.ca.gov/regular-basic-course.aspx>.) PC 832 training is 40 to 64 hours, two of which

are dedicated to the final exam. (<https://post.ca.gov/pc-832-arrest-and-firearms-training-specifications.aspx>.) Once the officer completes the course and satisfactorily passes the examination, the officer must become a peace officer within three years, and may not have a break in service of three years or longer. If the officer does not become employed as a peace officer, or has the proscribed break in service, he or she must repeat the training and retake the examination. Like 803.1(a) officers, these officers are required to satisfactorily complete 24 or more hours of POST-qualifying training during every two-years.

According to the California State Sheriff's Association:

Existing law allows for two different classifications of peace officers to work in county jails: 830.1(a) officers, which are peace officers at all times and 830.1(c) deputies, which are correctional officers that have limited peace officer powers. In order for a person to be employed as an 830.1(a) officer, he or she must complete the full basic academy (664 hours of training) while an 830.1(c) officer must only complete a 64 hour course.

In rare instances, a person that has completed the full basic academy course gets hired by a county as an 830.1(c) deputy in the county jail. In this situation, the person has 3 years from the time the person graduates from the academy to obtain an 830.1(a) position before his or her POST certificate/eligibility expires. While many counties work to ensure that jail deputies that wish to transfer to patrol do so in less than 3 years, in some counties (such as Kings and Butte), patrol positions may not be available prior to the expiration of a person's eligibility. In those situations, the deputy must then complete a refresher course, which costs money for the deputy and requires the county to backfill the person's time while the person is taking the class. (Note: all officers, regardless of classification, must continue to maintain their perishable skills through POST training.)

However, for those deputies that are hired in counties as 830.1(a) officers in the jails, that person's eligibility to transfer to a patrol position never expires even though that officer is doing the same exact work as an 830.1(c) deputy in another county. We believe that creates an inequity for those counties that have chosen to utilize 830.1(c) deputies in the jails. It also incentivizes deputies that wish to move to patrol to leave the hiring agency prior to the expiration of their POST certificate.

This legislation is intended to deal with a group of officers who have had the requisite training to become "regular officers," but have been serving in a limited function positions for more than three years, by exempting them from requalification requirements if they have been continuously employed as a custodial peace officer for a period not exceeding five years by the agency making the appointment.

-- END --