
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 332 **Hearing Date:** July 9, 2019
Author: Lackey
Version: July 1, 2019
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Peace Officers: Training*

HISTORY

Source: Author

Prior Legislation: None known

Support: Los Angeles Police Protective League; Riverside Sheriffs' Association

Opposition: None known

Assembly Floor Vote: 76 - 0

PURPOSE

The purpose of this bill is to create a general prohibition on the release of personal identifying information as related to testing results of law enforcement academy students. The bill also requires the Commission on Peace Officer Standards and Training (POST) to submit a report to the Legislature and Governor with specified data relating to students' completion of the basic training course for peace officers and the availability of remedial training and retesting when a student fails to complete a course.

Existing law finds and declares in enacting the California Public Records Act, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Gov. Code § 6250.)

Existing law provides that complaints by members of the public that are determined by the officer's employing agency to be frivolous, as defined, or unfounded or exonerated, or any portion of a complaint that is determined to be frivolous, unfounded, or exonerated, shall not be maintained in that officer's general personnel file. However, these complaints shall be retained in other, separate files that shall be deemed personnel records for purposes of the California Public Records Act and Section 1043 of the Evidence Code (which governs discovery and disclosure of police personnel records in legal proceedings). (Pen. Code § 832.5, subd. (c).)

Existing law provides that peace or custodial officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records,

are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office. (Pen. Code § 832.7, subd. (a).)

Existing law mandates disclosure of personnel records, subject to exceptions, for records related to sustained findings of dishonesty, sustained findings of sexual assault, and use of excessive force, as specified. (Pen. Code § 832.7, subd. (b).)

This bill provides, in addition to the reporting requirements, a general prohibition that information that identifies the testing results of a particular student of a regular basic course of peace officer training is confidential and shall not be released to the public unless otherwise subject to disclosure under Penal Code section 832.7.

This bill finds and declares that this bill imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest: It is generally in the public interest to protect the privacy of students who attend basic training courses by protecting their personal identifying information as it relates to testing.

Existing law requires all peace officers to complete an introductory course of training prescribed by the Commission on Peace Officers Standards and Training (POST), demonstrated by passage of an appropriate examination developed by POST. (Pen. Code, § 832, subd. (a).)

Existing law states that satisfactory completion of the course shall be demonstrated by passage of an appropriate examination developed or approved by the commission. Training in the carrying and use of firearms shall not be required of a peace officer whose employing agency prohibits the use of firearms. (Pen. Code, § 832, subd. (a).)

Existing law specifies that a peace officer, prior to the exercise of the powers of a peace officer, shall have satisfactorily completed the training course. (Pen. Code, § 832, subd. (b).)

Existing law provides a person completing the training course who does not become employed as a peace officer within three years from the date of passing the examination, or who has a three-year or longer break in service as a peace officer, shall pass the examination prior to the exercise of the powers of a peace officer, except as specified. (Pen. Code, § 832, subd. (e).)

Existing law authorizes POST, for the purpose of raising the level of competence of local law enforcement officers, to adopt rules establishing minimum standards related to physical, mental and moral fitness and training that shall govern the recruitment of any peace officers in California. (Pen. Code, § 13510, subd. (a).)

Existing law empowers POST to develop and implement programs to increase the effectiveness of law enforcement. (Pen. Code, § 13503.)

Existing law authorizes POST, for the purpose of raising the level of competence of local law enforcement officers, to adopt rules establishing minimum standards related to physical, mental and moral fitness and training that shall govern the recruitment of any peace officers in California. (Pen. Code, § 13510, subd. (a).)

Existing law requires POST to conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability and adopt standards supported by this research. (Pen. Code, § 13510, subd. (b).)

Existing law requires POST to establish a certification program for peace officers, which shall be considered professional certificates. (Pen. Code, § 13510.1, subd. (a).)

Existing law specifies that every peace officer, except as specified, shall complete the Regular Basic Course before being assigned duties which include the exercise of peace officer powers. (Cal. Code Regs., § 1005, subd. (a)(1).)

Existing law states that POST will grant an extension of time limit for completion of the basic training course upon presentation of satisfactory evidence by a department that a trainee is unable to complete the required course within the time limit because of illness, injury, military service, or special duty assignment required and made in the public interest of the concerned jurisdiction, or upon presentation of evidence by a department that a trainee is unable to complete the required course within the time prescribed. (Cal. Code Regs., § 1006, subd. (a).)

This bill requires the Commission on Peace Officer Standards and Training (POST), on or before April 1, 2021, to submit a report to the Legislature and Governor with the following data:

- 1) The number of students who attended an academy, the number and percentage of completion, and the number and percentage of failure to successfully complete the academy.
- 2) The self-dismissal rate of students who failed to complete the academy.
- 3) Numbers of students who failed due to failure to complete one or more learning domains, and related data.
- 4) The number of students who received one or more opportunities for remedial training for a learning domain included in the report.

This bill specifies that data reported pursuant to this bill shall also be aggregated by the race and gender of students.

This bill specifies that the report shall also contain:

- 1) A review of academies' practices regarding remedial training for a student who has previously failed to successfully complete a learning domain and a discussion of whether the commission finds that there is a common understanding by academies of the extent to which, and the type of, additional training is appropriate when a student is unsuccessful at completing a learning domain, particularly with regard to the learning domains relating to vehicle operation and firearms proficiency.

- 2) A discussion of whether the commission finds that minimum standards for an appropriate level of remedial training, particularly with regard to the learning domains relating to vehicle operation and firearms proficiency, should be established by the commission and whether additional guidance for academies is needed on remedial training. This discussion may include any recommendations for statutory changes, administrative changes, or both, if appropriate.
- 3) At least six months of academy data, and may include more data if feasible and available.

This bill specifies that the report shall not include any student personal identifying information or testing result information.

This bill provides that the reporting requirements of this legislation sunset on January 1, 2024.

COMMENTS

1. Need for This Bill

According to the author:

The learning domains that have the highest fail rates are “firearms proficiency” and “vehicle operations.” During a 2018 PPIC panel, it was mentioned that of the trainees who were kicked out of an academy’s last two classes, 100% of them were minorities, women, or both.

In some instances, a trainee may fail a learning domain due to their lack of comfort and familiarity with operating a firearm or operating a vehicle at high speeds. In regards to the “firearm proficiency” course, a trainee may have grown up without the exposure to firearms, thus needing more time to become comfortable and proficient in shooting.

2. Confidentiality for Student Test Results

The author recently amended the bill to prohibit the disclosure of records of academy students personal identifying information as that information relates to testing results at the academy. The author of the bill has agreed to clarify that this prohibition is subject to any disclosure deemed relevant and subject to disclosure under Pen. Code § 832.7, as codified in last year’s SB 1421 (Skinner), Ch. 988, Stats. of 2018.

3. Law Enforcement Basic Training Course

The POST-certified Regular Basic Course (basic academy) is the training standard for police officers, deputy sheriffs, school district police officers, district attorney investigators, as well as a few other classifications of peace officers. The basic academy includes a minimum of 664 hours of POST-developed training and testing in 42 separate areas of instruction called Learning Domains. Most POST-certified basic training academies exceed the 664 hour minimum by 200 or more hours.

Academy students are subject to various written, skill, exercise, and scenario-based tests. Students must also participate in a physical conditioning program which culminates in a Work Sample Test Battery (physical ability test) at the end of the academy. Students must pass all tests in order to graduate from the basic academy.¹

The basic academy is divided into 42 individual topics, called Learning Domains. The Learning Domains contain the minimum required foundational information for given subjects, which are detailed in the Training and Testing Specifications for Peace Officer Basic Courses. The training and testing specifications for a particular domain may also include information on required instructional activities and testing requirements.

The basic academy provides hands-on experience, including weapons training, role-play scenarios, patrol procedures, emergency vehicle operations, and arrest and control techniques. The student must pass written, exercise, scenario, and physical abilities tests, to demonstrate readiness for entry into a department's standardized Field Training / Police Training Program.

4. Existing Remedial Opportunities

According to POST, basic training academies do provide an opportunity to remediate (retake) a test that a cadet fails. The remediation opportunity is provided one time. POST indicates that there is not a standard time period for the remediation. Without a standard period for remediation, it appears that academies are currently providing different periods for remediation. A short period of remediation might not give a cadet a reasonable opportunity to improve the skills needed to pass the test. It does not appear that the requirement or process of remediation is included in existing POST statutes or the California Code of Regulations.

5. POST Data on Academy Graduations

POST collects some data on graduation rates and numbers from the basic training academies. The data can be disaggregated by ethnicity and gender, but the graduation data does not include information on the particular reason why a trainee fails to complete the academy.

This bill would require POST to submit a report to the Legislature and Governor with specified data relating to students' completion of the basic training course for peace officers and the availability of remedial training and retesting when a student fails to complete a course. The bill is intended to gather data to evaluate whether there are changes that can be made at the Basic Course level to increase retention of cadets while maintaining training standards.

6. Argument in Support

According to the *Riverside Sheriffs Association*:

As stated in the Legislative Counsel Digest, AB 332 would “permit a law enforcement agency that is sponsoring a peace officer trainee, or an entity that operates a peace officer training academy, to permit a peace officer trainee to have at least one, but not more than 3, opportunities to remediate the skills portion of the learning domains relative to vehicle operations and firearm proficiency.”

¹ (<https://post.ca.gov/peace-officer-basic-training>)

AB 332 would allow peace officer cadets additional opportunities to become proficient in these areas. This will save law enforcement agencies significant time and resources they would otherwise be required to expend to ensure that they have the qualified, successful POST academy graduates needed for their departments. The Riverside County Sheriffs' Department, like most law enforcement agencies in California, struggles to find qualified candidates to fill its growing number of vacancies. These vacancies in turn require departments to institute mandatory overtime for currently employed peace officers. Forced overtime results in tired, dissatisfied officers, who are more susceptible to make errors in practice and judgment.

AB 332 will improve the POST academy completion rate while maintaining its current standards, saving taxpayer dollars and increasing the number of successful cadets eligible for employment.

-- END --