

ASSEMBLY BILL

No. 1040

Introduced by Assembly Member Wieckowski

February 22, 2013

An act to amend Section 830.5 of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1040, as introduced, Wieckowski. Peace officer: firearms.

Existing law designates various persons as peace officers, including probation officers, parole officers, and parole agents, and provides that their authority extends to certain duties, including to the conditions of parole, probation, or postrelease community supervision of a person in the state on parole, probation, or postrelease community supervision, the escape of an inmate or ward from a state or local institution, the transportation of persons on parole, probation, or postrelease community supervision, and violations of law that are discovered while performing his or her duties. Existing law categorizes a probation officer as a peace officer who may carry firearms only if authorized by his or her employing agency, and under the terms and conditions specified by his or her employing agency.

This bill would require the chief probation officer of each county to train and arm those probation officers and deputy probation officers who are assigned supervision of persons on probation or postrelease community supervision that are deemed high risk. The bill would require every county probation department to promulgate regulations consistent with these provisions.

By imposing new duties on counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 830.5 of the Penal Code is amended to
2 read:

3 830.5. The following persons are peace officers whose authority
4 extends to any place in the state while engaged in the performance
5 of the duties of their respective employment and for the purpose
6 of carrying out the primary function of their employment or as
7 required under Sections 8597, 8598, and 8617 of the Government
8 Code, as amended by Section 44 of Chapter 1124 of the Statutes
9 of 2002. Except as specified in this section, these peace officers
10 may carry firearms only if authorized and under those terms and
11 conditions specified by their employing agency:

12 (a) A parole officer of the Department of Corrections and
13 Rehabilitation, or the Department of Corrections and
14 Rehabilitation, Division of Juvenile Parole Operations, probation
15 officer, deputy probation officer, or a board coordinating parole
16 agent employed by the Juvenile Parole Board. Except as otherwise
17 provided in this subdivision, the authority of these parole or
18 probation officers shall extend only as follows:

19 (1) To conditions of parole, probation, mandatory supervision,
20 or postrelease community supervision by any person in this state
21 on parole, probation, mandatory supervision, or postrelease
22 community supervision.

23 (2) To the escape of any inmate or ward from a state or local
24 institution.

25 (3) To the transportation of persons on parole, probation,
26 mandatory supervision, or postrelease community supervision.

1 (4) To violations of any penal provisions of law ~~which~~ *that* are
2 discovered while performing the usual or authorized duties of his
3 or her employment.

4 (5) (A) To the rendering of mutual aid to any other law
5 enforcement agency.

6 (B) For the purposes of this subdivision, “parole agent” shall
7 have the same meaning as parole officer of the Department of
8 Corrections and Rehabilitation or of the Department of Corrections
9 and Rehabilitation, Division of Juvenile ~~Justice~~ *Facilities*.

10 (C) Any parole officer of the Department of Corrections and
11 Rehabilitation, or the Department of Corrections and
12 Rehabilitation, Division of Juvenile Parole Operations, is
13 authorized to carry firearms, but only as determined by the director
14 on a case-by-case or unit-by-unit basis and only under those terms
15 and conditions specified by the director or chairperson. The
16 Department of Corrections and Rehabilitation, Division of Juvenile
17 ~~Justice~~ *Facilities*, shall develop a policy for arming peace officers
18 of the Department of Corrections and Rehabilitation, Division of
19 Juvenile ~~Justice~~ *Facilities*, who comprise “high-risk transportation
20 details” or “high-risk escape details” no later than June 30, 1995.
21 This policy shall be implemented no later than December 31, 1995.

22 (D) The Department of Corrections and Rehabilitation, Division
23 of Juvenile ~~Justice~~ *Facilities*, shall train and arm those peace
24 officers who comprise tactical teams at each facility for use during
25 “high-risk escape details.”

26 (E) *The chief probation officer of each county shall train and*
27 *arm those probation officers and deputy probation officers who*
28 *are assigned supervision duties of persons on probation or*
29 *postrelease community supervision that are deemed “high risk.”*

30 (b) A correctional officer employed by the Department of
31 Corrections and Rehabilitation, or of the Department of Corrections
32 and Rehabilitation, Division of Juvenile ~~Justice~~ *Facilities*, having
33 custody of wards or any employee of the Department of Corrections
34 and Rehabilitation designated by the secretary or any correctional
35 counselor series employee of the Department of Corrections and
36 Rehabilitation or any medical technical assistant series employee
37 designated by the secretary or designated by the secretary and
38 employed by the State Department of ~~Mental Health~~ *State*
39 *Hospitals* or any employee of the Board of Parole Hearings
40 designated by the secretary or employee of the Department of

1 Corrections and Rehabilitation, Division of Juvenile—Justice
2 *Facilities*, designated by the secretary or any superintendent,
3 supervisor, or employee having custodial responsibilities in an
4 institution operated by a probation department, or any
5 transportation officer of a probation department.

6 (c) The following persons may carry a firearm while not on
7 duty: a parole officer of the Department of Corrections and
8 Rehabilitation, or the Department of Corrections and
9 Rehabilitation, Division of Juvenile—Justice *Facilities*, a correctional
10 officer or correctional counselor employed by the Department of
11 Corrections and Rehabilitation, or an employee of the Department
12 of Corrections and Rehabilitation, Division of Juvenile—Justice
13 *Facilities*, having custody of wards or any employee of the
14 Department of Corrections and Rehabilitation designated by the
15 secretary. A parole officer of the Juvenile Parole Board may carry
16 a firearm while not on duty only when so authorized by the
17 chairperson of the board and only under the terms and conditions
18 specified by the chairperson. Nothing in this section shall be
19 interpreted to require licensure pursuant to Section 25400. The
20 director or chairperson may deny, suspend, or revoke for good
21 cause a person's right to carry a firearm under this subdivision.
22 That person shall, upon request, receive a hearing, as provided for
23 in the negotiated grievance procedure between the exclusive
24 employee representative and the Department of Corrections and
25 Rehabilitation, Division of Juvenile—Justice *Facilities*, or the
26 Juvenile Parole Board, to review the director's or the chairperson's
27 decision.

28 (d) Persons permitted to carry firearms pursuant to this section,
29 either on or off duty, shall meet the training requirements of Section
30 832 and shall qualify with the firearm at least quarterly. It is the
31 responsibility of the individual officer or designee to maintain his
32 or her eligibility to carry concealable firearms off duty. Failure to
33 maintain quarterly qualifications by an officer or designee with
34 any concealable firearms carried off duty shall constitute good
35 cause to suspend or revoke that person's right to carry firearms
36 off duty.

37 (e) The Department of Corrections and Rehabilitation shall
38 allow reasonable access to its ranges for officers and designees of
39 either department to qualify to carry concealable firearms off duty.
40 The time spent on the range for purposes of meeting the

1 qualification requirements shall be the person's own time during
2 the person's off-duty hours.

3 (f) The secretary *and every county probation department* shall
4 promulgate regulations consistent with this section.

5 (g) "High-risk transportation details" and "high-risk escape
6 details" as used in this section shall be determined by the secretary,
7 or his or her designee. The secretary, or his or her designee, shall
8 consider at least the following in determining "high-risk
9 transportation details" and "high-risk escape details": protection
10 of the public, protection of officers, flight risk, and violence
11 potential of the wards.

12 (h) "Transportation detail" as used in this section shall include
13 transportation of wards outside the facility, including, but not
14 limited to, court appearances, medical trips, and interfacility
15 transfers.

16 ~~(i) This section is operative January 1, 2012.~~

17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.