

Assembly Bill No. 1968

Passed the Assembly August 29, 2012

Chief Clerk of the Assembly

Passed the Senate August 27, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, Wieckowski. Peace officers.

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 authorize any probation officer or deputy probation officer to carry firearms as determined by the chief probation officer on a case-by-case or unit-by-unit basis and under terms and conditions specified by the chief probation officer. The bill would require certain chief probation officers to develop a policy as to whether probation officers and deputy probation officers who supervise high-risk caseloads should be armed. That policy would be required to be adopted no later than June 30, 2013, and would be required to be implemented no later than December 31, 2013, if the chief probation officer has not armed or has not adopted a policy regarding arming probation officers or deputy probation officers prior to January 1, 2013. The bill would define a high-risk caseload as a caseload that includes individuals who have been released from state prison subject to postrelease community supervision and have a prior conviction for a serious felony or violent felony.

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.

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

SECTION 1. Section 830.5 of the Penal Code, as amended by Section 25 of Chapter 43 of the Statutes of 2012, is amended to read:

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

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

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

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

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

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

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

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

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

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

(b) A correctional officer employed by the Department of Corrections and Rehabilitation, or of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary or any correctional counselor series employee of the Department of Corrections and Rehabilitation or any medical technical assistant series employee designated by the secretary or designated by the secretary and employed by the State Department of State Hospitals or any employee of the Board of Parole Hearings designated by the secretary or employee of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, designated by the secretary or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections and Rehabilitation, or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, a correctional officer or correctional counselor employed by the Department of Corrections and Rehabilitation, or an employee of the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, having custody of wards or any employee of the Department of Corrections and Rehabilitation designated by the secretary. A parole officer of the Juvenile Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 25400. The director or chairperson may deny, suspend, or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, or the Juvenile Parole Board, to review the director's or the chairperson's decision.

(d) (1) A probation officer or deputy probation officer is authorized to carry firearms, but only as determined by the chief probation officer on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the chief probation officer.

(2) (A) If a chief probation officer has not armed or has not adopted a policy regarding arming probation officers and deputy probation officers prior to January 1, 2013, the chief probation officer for each county shall develop a policy no later than June 30, 2013, as to whether probation officers and deputy probation officers who supervise high-risk caseloads should be armed. This policy shall be implemented no later than December 31, 2013.

(B) For purposes of this section, "high-risk caseload" means a caseload that includes individuals who have been released from state prison subject to postrelease community supervision and have a prior conviction for a serious felony described in subdivision (c) of Section 1192.7 or a violent felony described in subdivision (c) of Section 667.5.

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

(f) The Department of Corrections and Rehabilitation shall allow reasonable access to its ranges for officers and designees of either department to qualify to carry concealable firearms off duty. The time spent on the range for purposes of meeting the qualification requirements shall be the person's own time during the person's off-duty hours.

(g) The secretary shall promulgate regulations consistent with this section.

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

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

(j) This section is operative January 1, 2012.

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

Approved _____, 2012

Governor