

## **AB 557 Analysis and Recommendation**

**TITLE:** Hate crimes: hotline.

**AUTHORS:** Muratsuchi (D-Torrance), Chiu (D-San Francisco), Bonta (D-Oakland), Quirk (D-Hayward), Min (D-Irvine)

**SPONSORS:** N/A

**RECOMMENDATION:** Support

**BACKGROUND:** AB 557 is being introduced in response to the spike in hate crimes particularly against Asian Americans and Pacific Islanders (AAPIs) during the COVID-19 pandemic. According to a recent report published by Stop AAPI Hate, over 2,800 hate incidents have been reported across the country since the COVID-19 pandemic began including instances of verbal harassment, shunning, physical assault, and civil rights violations. Moreover, the U.S. Department of Justice estimates over half of all hate crimes are never reported. According to the bill authors, a toll-free hate crimes hotline, along with an online reporting system, will allow victims and witnesses to report a hate incident against any group in a safe, anonymous manner, particularly those who may face language or cultural barriers or are undocumented.

**PURPOSE:** AB 557 would require the California Attorney General to establish a toll-free hotline to report hate crimes and connect victims with local law enforcement agencies, as well as other local resources as appropriate. The hotline must be accessible to people with disabilities and non-English speakers. AB 557 would require the hotline to operate Monday through Friday, from 9am to 5pm, except for federal and state holidays. During hours of non-operation, the Attorney General would be required to provide a recorded message directing callers to call 9-1-1 or their local police non-emergency dispatch number. This bill would require this information, as well as an online reporting form for hate crimes and hate incidents, be posted to the Attorney General's website.

**DISTRICT IMPACT:** On June 22, 2017, the BART Board of Directors adopted a Safe Transit Policy declaring the District's commitment to a safe, secure, inviting, equitable, inclusive transit system for the community and affirming its dedication to the values of dignity, respect, and inclusivity regardless of ethnic or national origin, gender, gender identity, race, religious affiliation, sexual orientation or immigration status. Recent attacks against the AAPI community have prompted BART's Police Department to publicly condemn such violence, bigotry, and xenophobic acts and on April 8, 2021, the BART Board of Directors will also consider a resolution condemning violence against the AAPI community.

**OTHER COMMENTS:** Following reports of an increase in hate crimes nationwide, similar hotlines have been established in other states and in parts of California, including by the District Attorneys' Offices of the City and County of San Francisco and the County of Alameda.

**KNOWN SUPPORT/OPPOSITION:** None on file.

**STATUS:** Amended on 3/35/21 and referred to the Assembly Committee on Public Safety.

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 557**

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**Introduced by Assembly Member Members Muratsuchi and Chiu**  
**(Coauthors: Assembly Members Bonta and Quirk)**  
**(Coauthor: Senator Min)**

February 11, 2021

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~~An act to amend Section 422.92 of the Penal Code, relating to hate crimes.~~ *An act to add Section 422.94 to the Penal Code, relating to hate crimes.*

LEGISLATIVE COUNSEL'S DIGEST

AB 557, as amended, Muratsuchi. ~~Hate crimes.~~ *crimes: hotline.*

*Existing law defines "hate crime" as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation.*

*This bill would require the Attorney General to establish, maintain, and publicize a toll-free public hotline telephone number for the reporting of hate crimes, and for the dissemination of information about the characteristics of hate crimes, protected classes, civil remedies, and reporting options, as specified. The bill would require the Attorney General to post, maintain, and publicize a reporting form for hate crimes and hate incidents on their internet website that can be completed and submitted online. The bill would require the Attorney General's internet website to provide the public with specified information.*

~~Existing law defines a "hate crime" as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and~~

sexual orientation. Existing law requires every state and local law enforcement agency to make available a brochure on hate crimes, as specified.

~~This bill would make a technical, nonsubstantive change to those provisions.~~

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

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

1     SECTION 1. *The Legislature finds and declares all of the*  
2     *following:*

3     (a) *According to recent data from the Southern Poverty Law*  
4     *Center, there are more than 72 hate groups currently operating*  
5     *in California, which is the highest number in the country.*

6     (b) *Recent data from the Department of Justice shows that over*  
7     *1000 hate crimes were reported in 2018. The data also shows that*  
8     *in 2018, hate crimes involving bias against someone who is Jewish*  
9     *increased by 21.2 percent and hate crimes involving bias against*  
10    *someone who is Latino increased by 18.3 percent. Additionally,*  
11    *this data shows that hate crimes with a sexual orientation bias*  
12    *accounted for nearly 22.3 percent of hate crimes reported in 2018,*  
13    *and have been the second most common type of hate crime over*  
14    *the past 10 years.*

15    (c) *Anti-Asian rhetoric surrounding the COVID-19 pandemic*  
16    *has led to a spike in verbal and physical assaults against Asian*  
17    *Americans beginning in 2020. According to Stop AAPI Hate, over*  
18    *2,800 anti-Asian hate incidents have occurred nationwide since*  
19    *February 2020 with over 1,200 of those occurring in California.*

20    (d) *In many communities, people lack sufficient trust in local*  
21    *authorities to report hate crimes or hate incidents. A statewide*  
22    *hotline and online form would create important safe spaces to*  
23    *report a hate crime or incident.*

24    (e) *Following reports of an increase in hate crimes nationwide,*  
25    *similar hotlines have been established recently in other states and*  
26    *in parts of California, including by the district attorneys' offices*  
27    *of the City and County of San Francisco and the County of*  
28    *Alameda.*

29    SEC. 2. *Section 422.94 is added to the Penal Code, immediately*  
30    *following Section 422.93, to read:*

1     422.94. (a) (1) *The Attorney General shall establish, maintain,*  
2 *and publicize a toll-free public hotline telephone number for the*  
3 *following purposes:*

4     (A) *Reporting hate crimes and connecting with local law*  
5 *enforcement agencies.*

6     (B) (i) *Connecting people who have experienced or witnessed*  
7 *a hate crime or hate incident to other appropriate local resources.*

8     (ii) *The Attorney General may establish a list of*  
9 *community-based organizations from which to provide referrals*  
10 *pursuant to this subparagraph.*

11     (C) *Disseminating information about the characteristics of hate*  
12 *crimes and hate incidents, classes of individuals protected under*  
13 *Chapter 1 (commencing with Section 422.55), civil remedies that*  
14 *may be available for victims of hate crimes, and reporting options.*

15     (2) *The hotline shall be accessible to people with disabilities*  
16 *and people who do not speak English.*

17     (3) *The hotline shall operate Monday to Friday, inclusive, from*  
18 *9 a.m. to 5 p.m., except for federal holidays and state holidays, as*  
19 *defined in Section 19853 of the Government Code, or as otherwise*  
20 *posted on the Attorney General's internet website. The hotline,*  
21 *when not in operation, shall provide a recorded message directing*  
22 *callers to dial 9-1-1 in case of an emergency or otherwise to call*  
23 *their local police nonemergency dispatch number. This information*  
24 *shall also be posted on the Attorney General's internet website.*

25     (4) *Callers to the website shall be advised that the filing of a*  
26 *false report is a violation of Section 148.5 of the Penal Code,*  
27 *punishable as a misdemeanor. This information shall also be posted*  
28 *on the Attorney General's internet website.*

29     (b) *The Attorney General shall post, maintain, and publicize a*  
30 *reporting form for hate crimes and hate incidents on their internet*  
31 *website that can be completed and submitted online.*

32     (c) *The Attorney General's internet website shall provide the*  
33 *public with the same resources and information described in*  
34 *paragraph (1) of subdivision (a).*

35     SECTION 1. ~~Section 422.92 of the Penal Code is amended to~~  
36 ~~read:~~

37     ~~422.92. (a) Every state and local law enforcement agency in~~  
38 ~~the state shall make available a brochure on hate crimes to victims~~  
39 ~~of these crimes and the public.~~

1     ~~(b) The Department of Fair Employment and Housing shall~~  
2     ~~provide existing brochures, making revisions as needed, to local~~  
3     ~~law enforcement agencies upon request for reproduction and~~  
4     ~~distribution to victims of hate crimes and other interested parties.~~  
5     ~~In carrying out these responsibilities, the department shall consult~~  
6     ~~the Fair Employment and Housing Council, the Department of~~  
7     ~~Justice, and the California Victim Compensation Board.~~

## AB 886 Analysis and Recommendation

**TITLE:** Victims of crimes

**AUTHOR:** Bonta (D-Oakland)

**SPONSORS:** Asian Americans Advancing Justice – California

**RECOMMENDATION:** Support

**BACKGROUND:** AB 886 is a gut & amend by the author to address the recent surge in acts of hate violence against the Asian American and Pacific Islander (AAPI) community in California and nationwide. The bill was amended on March 22, 2021.

**PURPOSE:** AB 886 would create new state grants to support restorative justice and mental health programs and expand the eligibility for victims of hate violence to access victim compensation funds. Specifically, AB 886 does the following:

- Removes provisions within existing law that deny compensation if a victim fails to cooperate reasonably with a law enforcement agency or because the victim did not file a police report.
- Creates, subject to an appropriation of funds by the Legislature, the Community-Based Restorative Justice Grant Program within the Department of Justice. The program will award competitive grants to community-based organizations that work with those convicted of hate crime offenses and their victims. The program will require the grantee to forge a partnership with the local district attorney or prosecutors office if selected.
- Creates, subject to an appropriation of funds by the Legislatures, the Community-Based Mental Health Services for Victims of Hate Crimes Grant Program, to be administered by the California Health & Humas Services Agency. The program will fund community-based organizations that support hate crime victims through counseling and treatment for trauma, post-traumatic stress, and other related services for victims of, or other persons affected by, hate crimes and related hostilities.

**DISTRICT IMPACT:** On June 22, 2017, the BART Board of Directors adopted a Safe Transit Policy declaring the District's commitment to a safe, secure, inviting, equitable, inclusive transit system for the community and affirming its dedication to the values of dignity, respect, and inclusivity regardless of ethnic or national origin, gender, gender identity, race, religious affiliation, sexual orientation or immigration status. Recent attacks against the AAPI community have prompted BART's Police Department to publicly condemn such violence, bigotry, and xenophobic acts and on April 8, 2021, the BART Board of Directors will also consider a resolution condemning violence against the AAPI community.

**OTHER COMMENTS:** On February 23, 2021, Governor Newsom signed into law AB 85 to provide the UCLA Asian American Studies Center and the Stop AAPI Hate coalition with \$1.4 million in state funding to support community programs and ongoing research to address the impact of COVID-19 on AAPI communities, including new research and analysis into hate incidents. On March 26, 2021, Governor Newsome also signed onto a bipartisan letter with 26 governors condemning the rising violence against the AAPI community.

**KNOWN SUPPORT/OPPOSITION:** Support: AACL, AAPI Women Lead, APIENC, Arab Resource & Organizing Center (AROC), Asian Law Alliance, Bay Rising, CAIR-CA, Center for Empowering Refugees and Immigrants, Chinese Culture Center of San Francisco, East Bay Asian Local Development Corporation, Family Bridges, Filipino Advocates for Justice, Hip Hop For Change Inc., Japanese American Citizens League – Berkeley, Florin, Marysville, Placer County, Sacramento Chapters and Northern California Western Nevada Pacific District JACL, Korean American Community Foundation of San Francisco, Korean American Family Services (KFAM), Korean Community Center of the East Bay, Oakland Asian

Cultural Center, Project by Project, San Francisco, San Francisco Committee for Human Rights in the Philippines, South Bay Youth Changemakers, and Southeast Asian Development Center.

Opposition: None on file.

**STATUS:** Amended on 3/22/21 and referred to the Assembly Public Safety Committee.

AMENDED IN ASSEMBLY MARCH 22, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 886**

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**Introduced by Assembly Member Bonta**

February 17, 2021

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An act to amend ~~Section 13103 of the Penal Code~~, Sections 13954 and 13956 of the Government Code, to add Title 12.1 (commencing with Section 14220) to Part 4 of the Penal Code, and to add Part 7 (commencing with Section 5955) to Division 5 of the Welfare and Institutions Code, relating to ~~public records~~, victims of crimes, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 886, as amended, Bonta. ~~Public records~~. *Victims of crimes*.

(1) Existing law authorizes victims of crime to be awarded compensation by the California Victim Compensation Board for the pecuniary losses they suffer as a direct result of criminal acts. The awarding of compensation is subject to application procedures, eligibility requirements, and specified limits on the amount of compensation.

Existing law establishes the Restitution Fund and continuously appropriates moneys in the fund to the board for the purposes of indemnification of victims of crime.

Existing law allows the board to deny an application for compensation if the victim fails to reasonably cooperate with law enforcement officials, as specified, except as exempted.

This bill would eliminate the requirement that a victim cooperate with law enforcement to be eligible for compensation.



By expanding the authorization for the use of moneys in the continuously appropriated Restitution Fund, this bill would make an appropriation.

(2) Existing law defines a "hate crime" as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation.

Existing law creates various preconviction diversion programs for persons charged with crimes. Existing law states that restorative justice is a principal policy goal of the state in sentencing for hate crimes.

This bill would, subject to an appropriation of funds by the Legislature, create a grant program within the Department of Justice to provide grants to community-based organizations, as defined, for the implementation and operation of restorative justice programs, as defined, that are focused on hate crime offenses.

This bill would also, subject to an appropriation of funds by the Legislature, create a grant program within the California Health and Human Services Agency to provide grants to community-based organizations, as defined, for the implementation of mental health services, as described, focused on the victims of, and other persons affected by, hate crimes and related hostilities.

~~Existing law provides specified requirements to ensure uniform recording, reporting, storage, analysis, and dissemination of criminal offender record information by criminal justice agencies in the state. Existing law authorizes a criminal justice agency to destroy the original records maintained pursuant to those provisions if the records have been reproduced onto another storage medium, as specified. Existing law requires that if a record has been reproduced onto optical disk, that the original record be retained for at least one year, as specified, before destruction.~~

~~This bill would instead require that if a record has been reproduced onto optical disk, that the original record be retained for at least 16 months, as specified, before destruction.~~

Vote: majority <sup>2</sup>/<sub>3</sub>. Appropriation: no-yes. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 13954 of the Government Code is
- 2 amended to read:

1 13954. (a) The board shall verify with hospitals, physicians,  
2 law enforcement officials, or other interested parties involved, the  
3 treatment of the victim or derivative victim, circumstances of the  
4 crime, amounts paid or received by or for the victim or derivative  
5 victim, and any other pertinent information deemed necessary by  
6 the board. Verification information shall be returned to the board  
7 within 10 business days after a request for verification has been  
8 made by the board. Verification information shall be provided at  
9 no cost to the applicant, the board, or victim centers. When  
10 requesting verification information, the board shall certify that a  
11 signed authorization by the applicant is retained in the applicant's  
12 file and that this certification constitutes actual authorization for  
13 the release of information, notwithstanding any other provision of  
14 law. If requested by a physician or mental health provider, the  
15 board shall provide a copy of the signed authorization for the  
16 release of information.

17 (b) (1) The applicant shall cooperate with the staff of the board  
18 or the victim center in the verification of the information contained  
19 in the application. Failure to cooperate shall be reported to the  
20 board, which, in its discretion, may reject the application solely  
21 on this ground.

22 (2) An applicant may be found to have failed to cooperate with  
23 the board if any of the following occur:

24 (A) The applicant has information, or there is information that  
25 ~~he or she~~ *the applicant* may reasonably obtain, that is needed to  
26 process the application or supplemental claim, and the applicant  
27 failed to provide the information after being requested to do so by  
28 the board. The board shall take the applicant's economic,  
29 psychosocial, and postcrime traumatic circumstances into  
30 consideration, and shall not unreasonably reject an application  
31 solely for failure to provide information.

32 (B) The applicant provided, or caused another to provide, false  
33 information regarding the application or supplemental claim.

34 (C) The applicant refused to apply for other benefits potentially  
35 ~~available to him or her~~ from other sources besides the board  
36 including, but not limited to, worker's compensation, state  
37 disability insurance, social security benefits, and unemployment  
38 insurance.

39 (D) The applicant threatened violence or bodily harm to a  
40 member of the board or staff.

1 (c) The board may contract with victim centers to provide  
2 verification of applications processed by the centers pursuant to  
3 conditions stated in subdivision (a). The board and its staff shall  
4 cooperate with the Office of Criminal Justice Planning and victim  
5 centers in conducting training sessions for center personnel and  
6 shall cooperate in the development of standardized verification  
7 procedures to be used by the victim centers in the state. The board  
8 and its staff shall cooperate with victim centers in disseminating  
9 standardized board policies and findings as they relate to the  
10 centers.

11 (d) (1) Notwithstanding Section 827 of the Welfare and  
12 Institutions Code or any other provision of law, every law  
13 enforcement and social service agency in the state shall provide  
14 to the board or to victim centers that have contracts with the board  
15 pursuant to subdivision (c), upon request, a complete copy of the  
16 law enforcement report and any supplemental reports involving  
17 the crime or incident giving rise to a claim, a copy of a petition  
18 filed in a juvenile court proceeding, reports of the probation officer,  
19 and any other document made available to the probation officer  
20 or to the judge, referee, or other hearing officer, for the specific  
21 purpose of determining the eligibility of a claim filed pursuant to  
22 this chapter.

23 (2) The board and victim centers receiving records pursuant to  
24 this subdivision may not disclose a document that personally  
25 identifies a minor to anyone other than the minor who is so  
26 identified, ~~his or her~~ *the minor's* custodial parent or guardian, the  
27 attorneys for those parties, and any other persons that may be  
28 designated by court order. Any information received pursuant to  
29 this section shall be received in confidence for the limited purpose  
30 for which it was provided and may not be further disseminated. A  
31 violation of this subdivision is a misdemeanor punishable by a fine  
32 not to exceed five hundred dollars (\$500).

33 (3) The law enforcement agency supplying information pursuant  
34 to this section may withhold the names of witnesses or informants  
35 from the board, if the release of those names would be detrimental  
36 to the parties or to an investigation in progress.

37 (e) Notwithstanding any other provision of law, every state  
38 agency, upon receipt of a copy of a release signed in accordance  
39 with the Information Practices Act of 1977 (Chapter 1  
40 (commencing with Section 1798) of Title 1.8 of Part 4 of Division

1 3 of the Civil Code) by the applicant or other authorized  
2 representative, shall provide to the board or victim center the  
3 information necessary to complete the verification of an application  
4 filed pursuant to this chapter.

5 (f) The Department of Justice shall furnish, upon application of  
6 the board, all information necessary to verify the eligibility of any  
7 applicant for benefits pursuant to subdivision ~~(e)~~ (b) of Section  
8 13956, to recover any restitution fine or order obligations that are  
9 owed to the Restitution Fund or to any victim of crime, or to  
10 evaluate the status of any criminal disposition.

11 (g) A privilege is not waived under Section 912 of the Evidence  
12 Code by an applicant consenting to disclosure of an otherwise  
13 privileged communication if that disclosure is deemed necessary  
14 by the board for verification of the application.

15 (h) Any verification conducted pursuant to this section shall be  
16 subject to the time limits specified in Section 13958.

17 (i) Any county social worker acting as the applicant for a child  
18 victim or elder abuse victim shall not be required to provide  
19 personal identification, including, but not limited to, the applicant's  
20 date of birth or social security number. County social workers  
21 acting in this capacity shall not be required to sign a promise of  
22 repayment to the board.

23 *SEC. 2. Section 13956 of the Government Code is amended to*  
24 *read:*

25 13956. Notwithstanding Section 13955, a person shall not be  
26 eligible for compensation under the following conditions:

27 (a) An application may be denied, in whole or in part, if the  
28 board finds that denial is appropriate because of the nature of the  
29 victim's or other applicant's involvement in the events leading to  
30 the crime, or the involvement of the person whose injury or death  
31 gives rise to the application.

32 (1) Factors that may be considered in determining whether the  
33 victim or derivative victim was involved in the events leading to  
34 the qualifying crime include, but are not limited to:

35 (A) The victim or derivative victim initiated the qualifying  
36 crime, or provoked or aggravated the suspect into initiating the  
37 qualifying crime.

38 (B) The qualifying crime was a reasonably foreseeable  
39 consequence of the conduct of the victim or derivative victim.

(C) The victim or derivative victim was committing a crime that could be charged as a felony and reasonably lead to ~~him or her~~ *their* being victimized. However, committing a crime shall not be considered involvement if the victim's injury or death occurred as a direct result of a crime committed in violation of Section 261, 262, or 273.5 of, or for a crime of unlawful sexual intercourse with a minor in violation of subdivision (d) of Section 261.5 of, the Penal Code.

(2) If the victim is determined to have been involved in the events leading to the qualifying crime, factors that may be considered to mitigate or overcome involvement include, but are not limited to:

(A) The victim's injuries were significantly more serious than reasonably could have been expected based on the victim's level of involvement.

(B) A third party interfered in a manner not reasonably foreseeable by the victim or derivative victim.

(C) The board shall consider the victim's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the application should be denied pursuant to this section. The application of a derivative victim of domestic violence under 18 years of age or derivative victim of trafficking under 18 years of age shall not be denied on the basis of the denial of the victim's application under this subdivision.

~~(b) (1) An application shall be denied if the board finds that the victim or, if compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. In determining whether cooperation has been reasonable, the board shall consider the victim's or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family or the derivative victim or the derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors. A victim of domestic violence shall not be determined~~

1 to have failed to cooperate based on his or her conduct with law  
2 enforcement at the scene of the crime. Lack of cooperation shall  
3 also not be found solely because a victim of sexual assault,  
4 domestic violence, or human trafficking delayed reporting the  
5 qualifying crime.

6 (2) An application for a claim based on domestic violence shall  
7 not be denied solely because a police report was not made by the  
8 victim. The board shall adopt guidelines that allow the board to  
9 consider and approve applications for assistance based on domestic  
10 violence relying upon evidence other than a police report to  
11 establish that a domestic violence crime has occurred. Factors  
12 evidencing that a domestic violence crime has occurred may  
13 include, but are not limited to, medical records documenting  
14 injuries consistent with allegations of domestic violence, mental  
15 health records, or that the victim has obtained a permanent  
16 restraining order.

17 (3) An application for a claim based on a sexual assault shall  
18 not be denied solely because a police report was not made by the  
19 victim. The board shall adopt guidelines that allow it to consider  
20 and approve applications for assistance based on a sexual assault  
21 relying upon evidence other than a police report to establish that  
22 a sexual assault crime has occurred. Factors evidencing that a  
23 sexual assault crime has occurred may include, but are not limited  
24 to, medical records documenting injuries consistent with allegations  
25 of sexual assault, mental health records, or that the victim received  
26 a sexual assault examination.

27 (4) An application for a claim based on human trafficking as  
28 defined in Section 236.1 of the Penal Code shall not be denied  
29 solely because no police report was made by the victim. The board  
30 shall adopt guidelines that allow the board to consider and approve  
31 applications for assistance based on human trafficking relying  
32 upon evidence other than a police report to establish that a human  
33 trafficking crime as defined in Section 236.1 of the Penal Code  
34 has occurred. That evidence may include any reliable corroborating  
35 information approved by the board, including, but not limited to,  
36 the following:

37 (A) A Law Enforcement Agency Endorsement issued pursuant  
38 to Section 236.2 of the Penal Code.

1 ~~(B) A human trafficking caseworker, as identified in Section~~  
2 ~~1038.2 of the Evidence Code, has attested by affidavit that the~~  
3 ~~individual was a victim of human trafficking.~~

4 ~~(5) (A) An application for a claim by a military personnel victim~~  
5 ~~based on a sexual assault by another military personnel shall not~~  
6 ~~be denied solely because it was not reported to a superior officer~~  
7 ~~or law enforcement at the time of the crime.~~

8 ~~(B) Factors that the board shall consider for purposes of~~  
9 ~~determining if a claim qualifies for compensation include, but are~~  
10 ~~not limited to, the evidence of the following:~~

11 ~~(i) Restricted or unrestricted reports to a military victim~~  
12 ~~advocate, sexual assault response coordinator, chaplain, attorney,~~  
13 ~~or other military personnel.~~

14 ~~(ii) Medical or physical evidence consistent with sexual assault.~~

15 ~~(iii) A written or oral report from military law enforcement or~~  
16 ~~a civilian law enforcement agency concluding that a sexual assault~~  
17 ~~crime was committed against the victim.~~

18 ~~(iv) A letter or other written statement from a sexual assault~~  
19 ~~counselor, as defined in Section 1035.2 of the Evidence Code,~~  
20 ~~licensed therapist, or mental health counselor, stating that the~~  
21 ~~victim is seeking services related to the allegation of sexual assault.~~

22 ~~(v) A credible witness to whom the victim disclosed the details~~  
23 ~~that a sexual assault crime occurred.~~

24 ~~(vi) A restraining order from a military or civilian court against~~  
25 ~~the perpetrator of the sexual assault.~~

26 ~~(vii) Other behavior by the victim consistent with sexual assault.~~

27 ~~(C) For purposes of this subdivision, the sexual assault at issue~~  
28 ~~shall have occurred during military service, including deployment.~~

29 ~~(D) For purposes of this subdivision, the sexual assault may~~  
30 ~~have been committed off base.~~

31 ~~(E) For purposes of this subdivision, a "perpetrator" means an~~  
32 ~~individual who is any of the following at the time of the sexual~~  
33 ~~assault:~~

34 ~~(i) An active duty military personnel from the United States~~  
35 ~~Army, Navy, Marine Corps, Air Force, or Coast Guard.~~

36 ~~(ii) A civilian employee of any military branch specified in~~  
37 ~~clause (i), military base, or military deployment.~~

38 ~~(iii) A contractor or agent of a private military or private security~~  
39 ~~company.~~

40 ~~(iv) A member of the California National Guard.~~

(F) For purposes of this subdivision, “sexual assault” means an offense included in Section 261, 262, 264.1, 286, 287, formerly 288a, or Section 289 of the Penal Code, as of the date the act that added this paragraph was enacted.

(e)

(b) (1) Notwithstanding Section 13955, no person who is convicted of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code may be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, or has been discharged from postrelease community supervision or mandatory supervision, if any, for that violent crime. In no case shall compensation be granted to an applicant pursuant to this chapter during any period of time the applicant is held in a correctional institution, or while an applicant is required to register as a sex offender pursuant to Section 290 of the Penal Code.

(2) A person who has been convicted of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code may apply for compensation pursuant to this chapter at any time, but the award of that compensation may not be considered until the applicant meets the requirements for compensation set forth in paragraph (1).

SEC. 3. Title 12.1 (commencing with Section 14220) is added to Part 4 of the Penal Code, to read:

**TITLE 12.1. COMMUNITY-BASED RESTORATIVE JUSTICE  
GRANT PROGRAM**

14220. A program to provide grant assistance to community-based organizations to create or maintain restorative justice programs in collaboration with the prosecutor in their local jurisdiction is hereby created, to be administered by the Department of Justice.

14220.1. As used in this title, terms are defined as follows:

(a) “Community-based organization” means a nonprofit nongovernmental organization with a physical presence in the jurisdiction in which it is applying for a grant under this title.

(b) “Department” means the Department of Justice.

(c) “Hate crime” has the same meaning as in Section 422.55.



1 (d) "Prosecutor" means the district attorney, city attorney, or  
2 other entity responsible for the prosecution of criminal offenses  
3 on behalf of a local jurisdiction.

4 (e) "Restorative justice" means a preconviction alternative to  
5 criminal prosecution, entered into with the voluntary consent of  
6 the victim, the offender, and the prosecutor, in which a  
7 community-based organization facilitates mediation between the  
8 parties that aims to compensate the victim for the harm suffered,  
9 rehabilitate the offender through understanding the impacts of  
10 their offense, break down barriers of fear and mistrust that exist  
11 between communities because of cultural differences and language  
12 barriers, and build bridges based on common interests and goals.

13 14220.2. Grants made pursuant to this title shall be made to  
14 community-based organizations and used to fund the  
15 implementation and operation of restorative justice programs that  
16 focus on offenders who have committed hate crime offenses and  
17 their victims.

18 14220.3. An applicant for a grant shall submit a proposal, in  
19 a form prescribed by the department.

20 14220.4. Grants shall be made on a competitive basis to those  
21 applicants who, as determined by the department, based upon  
22 application materials, have demonstrated a need for restorative  
23 justice programs in the communities they serve, have the knowledge  
24 and ability to effectively implement and operate a restorative  
25 justice program as described in Section 14220.2, and have secured  
26 a commitment from the local district attorney or prosecutor to  
27 work with the applicant if they are selected for a grant.

28 14220.5. Each grantee shall report to the department, in a  
29 form and at intervals prescribed by the department, a summary of  
30 activities supported by the grant and related data.

31 14220.6. The implementation of this title is contingent upon  
32 an appropriation by the Legislature in the annual Budget Act or  
33 another statute for purposes of this title.

34 SEC. 4. Part 7 (commencing with Section 5955) is added to  
35 Division 5 of the Welfare and Institutions Code, to read:

1  
2 *PART 7. COMMUNITY-BASED MENTAL HEALTH SERVICES*  
3 *FOR VICTIMS OF HATE CRIMES GRANT PROGRAM*  
4

5 5955. *A program to provide grant assistance to*  
6 *community-based organizations to provide mental health services*  
7 *for victims of hate crimes is hereby created to be administered by*  
8 *the California Health and Human Services Agency.*

9 5956. *As used in this title, terms are defined as follows:*

10 (a) *"Agency" means the California Health and Human Services*  
11 *Agency.*

12 (b) *"Community-based organization" means a nonprofit*  
13 *nongovernmental organization with a physical presence in the*  
14 *jurisdiction in which it is applying for a grant under this title.*

15 (c) *"Hate crime" has the same meaning as in Section 422.55.*

16 (d) *"Mental health services" means counseling and treatment*  
17 *for trauma, post-traumatic stress, and other related services for*  
18 *victims of, or other persons affected by, hate crimes and related*  
19 *hostilities.*

20 5957. *Grants made pursuant to this title shall be made to*  
21 *community-based organizations and used to fund the*  
22 *implementation and operation of programs providing mental health*  
23 *services geared towards and located within underserved*  
24 *communities.*

25 5958. *An applicant for a grant shall submit a proposal, in a*  
26 *form prescribed by the agency.*

27 5959. *Grants shall be made on a competitive basis to those*  
28 *applicants who, as determined by the agency, based upon*  
29 *application materials, have demonstrated a need for mental health*  
30 *service for victims of hate crimes and others affected by hate crimes*  
31 *in the communities they serve, have the knowledge and ability to*  
32 *effectively provide those services, including relevant language*  
33 *skills and cultural competencies, and are appropriately licensed.*

34 5960. *Each grantee shall report to the agency, in a form and*  
35 *at intervals prescribed by the agency, a summary of activities*  
36 *supported by the grant and related data.*

37 5961. *The implementation of this part is contingent upon an*  
38 *appropriation by the Legislature in the annual Budget Act or*  
39 *another statute for purposes of this part.*

1     SECTION 1. ~~Section 13103 of the Penal Code is amended to~~  
2     ~~read:~~

3     ~~13103. Notwithstanding any other provisions of law relating~~  
4     ~~to retention of public records, any criminal justice agency may~~  
5     ~~cause the original records filed pursuant to this chapter to be~~  
6     ~~destroyed if all of the following requirements are met:~~

7     ~~(a) The records have been reproduced onto microfilm or optical~~  
8     ~~disk, or by any other techniques which do not permit additions,~~  
9     ~~deletions, or changes to the original document.~~

10    ~~(b) If the records have been reproduced onto optical disk, at~~  
11    ~~least 16 months have elapsed since the date of registration of the~~  
12    ~~records.~~

13    ~~(c) The nonerasable storage medium used meets the minimum~~  
14    ~~standards recommended by the National Institute of Standards and~~  
15    ~~Technology for permanent record purposes.~~

16    ~~(d) Adequate provisions are made to ensure that the nonerasable~~  
17    ~~storage medium reflects additions or corrections to the records.~~

18    ~~(e) A copy of the nonerasable storage medium is maintained in~~  
19    ~~a manner which permits it to be used for all purposes served by~~  
20    ~~the original record.~~

21    ~~(f) A copy of the nonerasable storage medium has been stored~~  
22    ~~at a separate physical location in a place and manner which will~~  
23    ~~reasonably assure its preservation indefinitely against loss or~~  
24    ~~destruction.~~

## AB 917 Analysis and Recommendation

**TITLE:** Vehicles: video imaging of parking violations

**AUTHOR:** Bloom (D-Los Angeles)

**SPONSORS:** California Transit Association, Alameda-Contra Costa Transit District (AC Transit), Los Angeles County Metropolitan Transportation Authority

**RECOMMENDATION:** Support

**BACKGROUND:** In California, two transit operators currently have statutory authority to use camera technology to enforce parking violations in transit-only lanes – the San Francisco Municipal Transportation Agency (since 2007) and AC Transit (since 2015). This authority was originally sought by each agency to improve service reliability, enhance rider safety and accessibility, and address the enforcement of vehicles illegally stopped in transit-only lanes. According to the bill sponsors, illegal parking at bus stops and in transit-only lanes by personal cars, moving vans, delivery trucks and private rideshare services has increased dramatically, making it difficult for operators to maneuver around heavily congested lanes and creating unsafe conditions for boarding and drop-offs.

**PURPOSE:** AB 917 would expand current state law to authorize a public transit operator to install forward-facing cameras to capture images of vehicles parked illegally in transit-only lanes, transit stops, and stations. Citations shall be issued only for violations captured during the posted hours of operation for a transit-only traffic lane or during the scheduled operating hours at transit stops and stations. Captured video and images of a parking violations shall be sent to the appropriate local parking entity, or contracted enforcement agency, for review and, if warranted, a parking citation will be issued via mail to the registered vehicle owner. The parking citations do not negatively impact a driver's record, carry the same fine as a "traditional" parking ticket, and can be appealed. Images that do not contain evidence of a parking infraction must be destroyed within 15 days. Images of confirmed parking infractions may be retained for up to six months then destroyed. Existing law also sets a 30 day noticing requirement for any newly enacted program.

**DISTRICT IMPACT:** In 2015, BART supported SB 1051 (Hancock), which granted AC Transit the statutory authority to enforce parking violations in transit-only lanes through the use of forward-facing cameras on district-owned buses. Blocked transit-only lanes and bus stops can pose significant safety risks for passengers when boarding or exiting a bus. This includes transit riders making multi-modal trips on BART and bus, persons with disabilities, seniors, families, and any individual forced to negotiate the gap that is created between a bus and the curb when a vehicle is parked illegally. As public transit agencies across the state work to address declining ridership, AB 917 would also provide operators with a cost-effective means of improving travel times, gaining riders, and ensuring safer streets for transit users.

**OTHER COMMENTS:** None

**KNOWN SUPPORT/OPPOSITION:** California Transit Association (co-sponsor), Alameda-Contra Costa Transit District (co-sponsor), Los Angeles County Metropolitan Transportation Authority (co-sponsor)

Opposition: None on file

**STATUS:** Introduced on 2/17/21; Scheduled hearing on 4/5/21 in the Assembly Committee on Transportation, dual referred to Assembly Committee on Privacy & Consumer Protection.

**ASSEMBLY BILL**

**No. 917**

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**Introduced by Assembly Member Bloom**

February 17, 2021

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An act to amend Sections 40240 and 40241 of, and to repeal Section 40240.5 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 917, as introduced, Bloom. Vehicles: video imaging of parking violations.

Existing law authorizes the City and County of San Francisco (San Francisco) and, until January 1, 2022, the Alameda-Contra Transit District, to enforce parking violations in specified transit-only traffic lanes through the use of video imaging and to install automated forward facing parking control devices on city-owned public transit vehicles for the purpose of video imaging parking violations occurring in transit-only traffic lanes, as specified. Existing law requires a designated employee, who is qualified by San Francisco, or a contracted law enforcement agency for the Alameda-Contra Costa Transit District, who is qualified by the city and county or the district to issue parking citations, to review video image recordings for the purpose of determining whether a parking violation occurred in a transit-only traffic lane and to issue a notice of violation to the registered owner of a vehicle within 15 calendar days, as specified. Existing laws makes these video image records confidential, and provides that these records are available only to public agencies to enforce parking violations. Existing law provides that if the Alameda-Contra Costa Transit District implements an automated enforcement system as described above, the district is required to submit

a report to specified committees of the Legislature by no later than January 1, 2021.

This bill would extend the authorization described above to any public transit operator in the state indefinitely. The bill would expand the authorization to enforce parking violations to include violations occurring at transit stops and stations. The bill would repeal the obsolete reporting requirement of the Alameda-Contra Costa Transit District.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings regarding the need to make certain video image records confidential.

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

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

1 SECTION 1. Section 40240 of the Vehicle Code is amended  
2 to read:  
3 40240. (a) ~~Subject to subdivision (g), the City and County of~~  
4 ~~San Francisco and the Alameda-Contra Costa Transit District A~~  
5 *public transit operator, as defined in Section 99210 of the Public*  
6 *Utilities Code, may install automated forward facing parking*  
7 *control devices on city-owned or district-owned public transit*  
8 *vehicles, as defined by Section 99211 of the Public Utilities Code,*  
9 *for the purpose of video imaging of parking violations occurring*  
10 *in transit-only traffic lanes; lanes and at transit stops and stations.*  
11 Citations shall be issued only for violations captured during the  
12 posted hours of operation for a transit-only traffic lane; *lane or*  
13 *during the scheduled operating hours at transit stops and stations.*  
14 The devices shall be angled and focused so as to capture video  
15 images of parking violations and not unnecessarily capture  
16 identifying images of other drivers, vehicles, and pedestrians. The  
17 devices shall record the date and time of the violation at the same  
18 time as the video images are captured. *Transit agencies may share*  
19 *the relevant data, video, and images of parking violations collected*  
20 *by automated forward facing parking control devices with the*

1 *local parking enforcement entity and local agency in the*  
2 *jurisdiction where the violation occurred.*

3 (b) Prior to issuing notices of parking violations pursuant to  
4 subdivision (a) of Section 40241, ~~the City and County of San~~  
5 ~~Francisco and the Alameda-Contra Costa Transit District~~ *a public*  
6 *transit operator, in partnership with a city or local enforcement*  
7 *authority*, shall commence a program to issue only warning notices  
8 for 30 ~~days~~. ~~The City and County of San Francisco and the~~  
9 ~~Alameda-Contra Costa Transit District~~ *days* and shall also make  
10 a public announcement of the program at least 30 days prior to  
11 commencement of issuing notices of parking violations.

12 (c) A designated employee ~~of the City and County of San~~  
13 ~~Francisco, a city or county~~, or a contracted law enforcement agency  
14 ~~for the Alameda-Contra Costa Transit District, a special transit~~  
15 *district*, who is qualified by ~~the city and county~~ *a city, county*, or  
16 the district to issue parking citations, shall review video image  
17 recordings for the purpose of determining whether a parking  
18 violation occurred in a transit-only traffic lane: ~~lane or at a transit~~  
19 *stop or station*. A violation of a statute, regulation, or ordinance  
20 governing vehicle parking under this code, under a federal or state  
21 statute or regulation, or under an ordinance enacted by ~~the City~~  
22 ~~and County of San Francisco or the Alameda-Contra Costa Transit~~  
23 ~~District~~ *a city, county, or special transit district* occurring in a  
24 transit-only traffic lane *or at a transit stop or station* observed by  
25 the designated employee in the recordings is subject to a civil  
26 penalty.

27 (d) The registered owner shall be permitted to review the video  
28 image evidence of the alleged violation during normal business  
29 hours at no cost.

30 (e) (1) Except as it may be included in court records described  
31 in Section 68152 of the Government Code, or as provided in  
32 paragraph (2), the video image evidence may be retained for up  
33 to six months from the date the information was first obtained, or  
34 60 days after final disposition of the citation, whichever date is  
35 later, after which time the information shall be destroyed.

36 (2) Notwithstanding Section 26202.6 of the Government Code,  
37 video image evidence from forward facing automated enforcement  
38 devices that does not contain evidence of a parking violation  
39 occurring in a transit-only traffic lane *or at a transit stop or station*

1 shall be destroyed within 15 days after the information was first  
2 obtained.

3 (f) Notwithstanding Section 6253 of the Government Code, or  
4 any other law, the video image records are confidential. Public  
5 agencies shall use and allow access to these records only for the  
6 purposes authorized by this article.

7 ~~(g) The authority for the Alameda-Contra Costa Transit District~~  
8 ~~to implement an automated enforcement system to enforce parking~~  
9 ~~violations occurring in transit-only traffic lanes exists only until~~  
10 ~~January 1, 2022.~~

11 (h)

12 (g) The following definitions shall apply for purposes of this  
13 article:

14 (1) "Local agency" means ~~the City and County of San Francisco~~  
15 ~~and the Alameda-Contra Costa Transit District.~~ *a public transit*  
16 *operator as defined in Section 99210 of the Public Utilities Code*  
17 *or a local city or county parking enforcement authority.*

18 (2) "Transit-only traffic lane" means any designated transit-only  
19 lane on which use is restricted to mass transit vehicles, or other  
20 designated vehicles including taxis and vanpools, during posted  
21 times.

22 SEC. 2. Section 40240.5 of the Vehicle Code is repealed.

23 ~~40240.5. (a) If the Alameda-Contra Costa Transit District~~  
24 ~~implements an automated enforcement system to enforce parking~~  
25 ~~violations occurring in transit-only traffic lanes pursuant to this~~  
26 ~~article, the district shall provide to the transportation, privacy, and~~  
27 ~~judiciary committees of the Legislature an evaluation report of the~~  
28 ~~enforcement system's effectiveness, impact on privacy, cost to~~  
29 ~~implement, and generation of revenue, no later than January 1,~~  
30 ~~2021.~~

31 ~~(b) (1) A report submitted pursuant to this section shall be~~  
32 ~~submitted notwithstanding Section 10231.5 of the Government~~  
33 ~~Code.~~

34 ~~(2) A report submitted pursuant to this section shall be submitted~~  
35 ~~in compliance with Section 9795 of the Government Code.~~

36 SEC. 3. Section 40241 of the Vehicle Code is amended to read:

37 40241. (a) A designated employee of the local agency,  
38 including a contracted law enforcement ~~agency for the~~  
39 ~~Alameda-Contra Costa Transit District,~~ *agency,* shall issue a notice  
40 of parking violation to the registered owner of a vehicle within 15



1 calendar days of the date of the violation. The notice of parking  
2 violation shall set forth the violation of a statute, regulation, or  
3 ordinance governing vehicle parking under this code, under a  
4 federal or state statute or regulation, or under an ordinance enacted  
5 by the City and County of San Francisco or the Alameda-Contra  
6 Costa Transit District *the local agency* occurring in a transit-only  
7 traffic lane *or at a transit stop or station*, a statement indicating  
8 that payment is required within 21 calendar days from the date of  
9 citation issuance, and the procedure for the registered owner, lessee,  
10 or rentee to deposit the parking penalty or contest the citation  
11 pursuant to Section 40215. The notice of parking violation shall  
12 also set forth the date, time, and location of the violation, the  
13 vehicle license number, registration expiration date, if visible, the  
14 color of the vehicle, and, if possible, the make of the vehicle. The  
15 notice of parking violation, or copy of the notice, shall be  
16 considered a record kept in the ordinary course of business of the  
17 City and County of San Francisco or the Alameda-Contra Costa  
18 Transit District *the local agency* and shall be prima facie evidence  
19 of the facts contained in the notice. ~~The City and County of San~~  
20 ~~Francisco or the Alameda-Contra Costa Transit District~~ *The local*  
21 *agency* shall send information regarding the process for requesting  
22 review of the video image evidence along with the notice of  
23 parking violation.

24 (b) The notice of parking violation shall be served by depositing  
25 the notice in the United States mail to the registered owner's last  
26 known address listed with the Department of Motor Vehicles.  
27 Proof of mailing demonstrating that the notice of parking violation  
28 was mailed to that address shall be maintained by the local agency.  
29 If the registered owner, by appearance or by mail, makes payment  
30 to the processing agency or contests the violation within either 21  
31 calendar days from the date of mailing of the citation, or 14  
32 calendar days after the mailing of the notice of delinquent parking  
33 violation, the parking penalty shall consist solely of the amount  
34 of the original penalty.

35 (c) If, within 21 days after the notice of parking violation is  
36 issued, the local agency determines that, in the interest of justice,  
37 the notice of parking violation should be canceled, the local agency  
38 shall cancel the notice of parking violation pursuant to subdivision  
39 (a) of Section 40215. The reason for the cancellation shall be set  
40 forth in writing.

1 (d) Following an initial review by the local agency, and an  
2 administrative hearing, pursuant to Section 40215, a contestant  
3 may seek court review by filing an appeal pursuant to Section  
4 40230.

5 ~~(e) The City and County of San Francisco or the contracted law~~  
6 ~~enforcement agency for the Alameda-Contra Costa Transit District~~  
7 ~~may contract~~ *A local agency or a contracted law enforcement*  
8 *agency, may contract* with a private vendor for the processing of  
9 notices of parking violations and notices of delinquent violations.  
10 ~~The City and County of San Francisco and the Alameda-Contra~~  
11 ~~Costa Transit District~~ *The local agency* shall maintain overall  
12 control and supervision of the program.

13 SEC. 4. The Legislature finds and declares that Section 1 of  
14 this act, which amends Section 40240 of the Vehicle Code, imposes  
15 a limitation on the public's right of access to the meetings of public  
16 bodies or the writings of public officials and agencies within the  
17 meaning of Section 3 of Article I of the California Constitution.  
18 Pursuant to that constitutional provision, the Legislature makes  
19 the following findings to demonstrate the interest protected by this  
20 limitation and the need for protecting that interest:

21 In order to protect the individual privacy rights of those  
22 individuals depicted in video camera footage relating to parking  
23 violations, it is necessary that this act limit the public's right of  
24 access to the images captured by an automated parking control  
25 device installed on public transit vehicles owned by a county, city  
26 and county, or transit district.

## SB 2 Analysis and Recommendation

**TITLE:** Peace officers: certification: civil rights

**AUTHORS:** Bradford (D-Gardena), Atkins (D-San Diego), Wiener (D-San Francisco), Durazo (D-Los Angeles), C. Garcia (D-Bell Gardens), McCarty (D-Sacramento), Quirk (D-Hayward), Holden (D-Los Angeles)

**SPONSORS:** American Civil Liberties Union of California, Alliance for Boys and Men of Color, Anti Police-Terror Project, Black Lives Matter Los Angeles, California Families United 4 Justice, Communities United for Restorative Youth Justice, PolicyLink, STOP Coalition, Youth Justice Coalition

**RECOMMENDATION:** None

**BACKGROUND:** The Tom Bane Civil Rights Act (the Bane Act) authorizes a civil cause of action against a person who, whether or not acting under color of law, uses threats, intimidation, or coercion to interfere with the ability of another person in the exercise and enjoyment of any rights guaranteed under the U.S. or California constitutions, or any right guaranteed under federal or state statute. A civil action may be brought by the Attorney General or public prosecutor, or it may be brought by the person whose rights were violated.

Under existing law, the Commission on Peace Officer Standards and Training (POST) develops standards and training requirements, identifies factors that disqualify a person from becoming a peace officer in the first instance, and issues different levels of certification to peace officers. POST may cancel a certification that was issued in error or was a result of fraud or misrepresentation; however, it is currently prohibited from cancelling a properly issued certification. California is one of only four states in the nation, along with Hawaii, New Jersey, and Rhode Island, that does not have a process to decertify law enforcement officers who have committed serious misconduct.

**PURPOSE:** SB 2 seeks to increase peace officer accountability and provide a means of decertifying police officers who engage in serious misconduct.

**The Bane Act:** SB 2 makes three changes to the Bane Act in order to: 1) clarify that threats, intimidation, and coercion may constitute an inherent interference with a right for purposes of the Act, without a showing of specific intent to interfere with those rights in addition to the threats, intimidation, or coercion; 2) declare that the immunity usually enjoyed by public entities and public employees under certain provisions of existing law does not apply to actions brought under the Act; and 3) allow a family member to bring an action on behalf of a person who died as a result of a violation of the Act.

**Peace Officer Standards Accountability Division (the division):** SB 2 would create a new Peace Officer Standards Accountability Division within POST with the primary responsibilities of reviewing potential grounds for decertification of peace officers, conducting investigations into serious misconduct, presenting findings and recommendations to POST and a newly created advisory board, and bringing forward proceedings seeking the revocation of certification of peace officers as directed. The division would be required to notify an officer subject to decertification of their findings and allow the officer to request review.

SB 2 requires revocation of peace officer certification if an investigation determines that the peace officer has 1) become ineligible to hold office as a police officer under the existing disqualification provisions or 2) been terminated for cause from employment as a peace officer or has otherwise engaged in any enumerated acts of "serious misconduct." Serious misconduct may include but is not lot limited to acts of dishonesty relating to reporting, investigation, or prosecution of a crime; abuses of power; physical abuse; sexual assault; demonstrating bias against a protected status; participation in a law enforcement gang or rogue on-duty behavior that violates the law or principles of professional policing; or failing to cooperate with an investigation into potential police misconduct.

POST may initiate proceedings to revoke an officer's certification for conduct which occurred before January 1, 2022, under specified instances. POST may also consider an officer's prior conduct and service record in determining whether revocation is appropriate for serious misconduct.

**Peace Officer Standards Accountability Advisory Board (the board):** SB 2 would create a new Peace Officer Standards Accountability Advisory Board, with the purpose of making recommendations on the decertification of peace officers to POST. The advisory board would consist of nine members:

- One member shall be a peace officer or former peace officer with substantial experience at a command rank, appointed by the Governor.
- One member shall be a peace officer or former peace officer with substantial experience at a management rank in internal investigations or disciplinary proceedings of peace officers, appointed by the Governor.
- Two members shall be members of the public, who have substantial experience working at nonprofit or academic institutions on issues related to police misconduct. One of these members shall be appointed by the Governor and one by the Speaker of the Assembly.
- Two members shall be members of the public, who have substantial experience working at community-based organizations on issues related to police misconduct. One of these members shall be appointed by the Governor and one by the Senate Rules Committee.
- Two members shall be members of the public, who have been subject to wrongful use of force likely to cause death or serious bodily injury by a peace officer, or who are surviving family members of a person killed by the wrongful use of deadly force by a peace officer, appointed by the Governor.
- One member shall be an attorney, with substantial professional experience involving oversight of peace officers, appointed by the Governor.

At each public hearing, the board shall review the findings of investigations and make a recommendation on what action should be taken on the certification of the peace officer involved. The board shall only recommend revocation if the factual basis for revocation is established by clear and convincing evidence. POST shall review all recommendations and adopt the board's recommendations unless it is without a reasonable basis.

**POST Standards and Certification:** SB 2 would grant POST the authority to suspend, revoke, or cancel any certificate issued to a peace officer. Beginning January 1, 2022, POST would be required to issue or deny certification, which includes a basic certificate or proof of eligibility, to peace officers in accordance with specified criteria. A basic certificate or proof of eligibility would need to be renewed every 2 years and would require POST to assess a fee for the initial issuance, renewal, and annual certification. The advisory board shall report annually on activities of POST, the division, and the board, relating to the certification program.

#### **Other Key Provisions**

- All records related to the revocation of a peace officer's certification shall be public record and retained for 30 years.
- Any peace officer may voluntarily surrender their certification permanently. Voluntary permanent surrender of certification shall have the same effect as revocation. Voluntary permanent surrender is not the same as placement of a valid certification into inactive status during a period in which a person is not actively employed as a peace officer. A permanently surrendered certification cannot be reactivated.

**DISTRICT IMPACT:** As an agency employing peace officers, BART would be required to employ only individuals with a current, valid certification or pending certification. BART would be required to report to POST a peace officer's employment, appointment, or separation from employment, any complaint, charge,

allegation, or investigation into the conduct of a peace officer that could render the officer subject to revocation, findings by civil oversight entities, and civil judgments that could affect the officer's certification. In cases of separation from employment or appointment, BART would also be required to execute an affidavit-of-separation form adopted by POST describing the reason for separation. More generally, BART has actively focused on implementing progressive and equitable policing practices for more than a decade and has established a citizen oversight model that is among the strongest in the country. The BART Board has also adopted a state advocacy goal of supporting administrative and legislative efforts that seek to advance racial justice and equity and create a culture of police accountability and responsibility.

**OTHER COMMENTS:** SB 2 is a re-introduction of SB 731 by Senator Bradford from the 2019-2020 legislative session. SB 731 was not presented to the Board for a position; however, Director Robert Raburn did submit an individual letter of support for the bill. SB 731 failed passage on the Assembly Floor. It was not brought up for a vote due to legislative deadlines imposed by the California State Constitution.

Staff have prepared the following analysis at the request of the Chair of the Planning, Public Affairs, Access, and Legislation Committee. Staff have no recommendation on SB 2. The BART Police Officer's Association and the BART Police Managers' Association have indicated opposition to SB 2, citing reasons related to the removal of qualified immunity for actions brought under the Bane Act, the time frame in which POST may initiate and conduct investigations, requirements placed on employing agencies, the composition of the nine-member advisory board, peace officer records on decertification being made public, and the requirement that peace officers be recertified every two years.

**KNOWN SUPPORT/OPPOSITION:** This list is illustrative of organizations that might support or oppose SB 2 as it closely mirrors SB 731 when it was heard in the Assembly Judiciary Committee last session. Since the bill was amended on March 11 from previous intent language, many organizations have yet to submit official position letters.

Support: Alameda County Public Defender's Office, Alliance for Boys and Men of Color, Alliance San Diego, American Civil Liberties Union of Northern California, American Civil Liberties Union of Southern California, American Civil Liberties Union of San Diego and Imperial Counties, Asian Americans Advancing Justice – California, Asian Law Alliance, Asian Solidarity Collective, Bend the Arc: Jewish Action, Brothers, Sons, Selves Coalition, California Attorneys for Criminal Justice, California Conference Board of the Amalgamated Transit Union, California Department of Insurance, California Employment Lawyers Association, California Faculty Association, California Immigrant Policy Center, California Pan - Ethnic Health Network, California Public Defenders Association, California- Stop Terrorism and Oppression by Police (STOP) Coalition, Californians for Safety and Justice, City of Alameda, City of Concord, City of Oakland, Communities United for Restorative Youth Justice (CURYJ), Community Advocates for Just and Moral Governance, Concerned Citizens for Justice, Consumer Attorneys of California, Consumer Watchdog, Drug Policy Alliance, East Bay for Everyone, Ella Baker Center for Human Rights, Empowering Pacific Islander Communities (EPIC), Equal Rights Advocates, Giffords, Having Our Say Coalition, Hillcrest Indivisible, Indivisible South Bay LA, Indivisible Stanislaus, Innercity Struggle, League of Women Voters of California, Los Angeles Black Worker Center, Mexican American, Bar Association of Los Angeles County, Mid-city Community Advocacy Network, National Association of Social Workers, California Chapter, National Juvenile Justice Network, National Lawyers Guild Los Angeles, National Police Accountability Project, Orange County Equality Coalition, Pacifica Social Justice, Professional & Technical Engineers, Local 21, IFPTE/AFL-CIO, Recording Industry Association of America, Sacramento Area Chapter of ACLU, San Diego LGBT Pride, Southeast Asia Resource Action Center, Stonewall Democratic Club, SURJ Marin, The Resistance Northridge-indivisible, Think Dignity, Tides Advocacy, UDW/AFSCME Local 3930, Voices for Progress Education Fund, We the People - San Diego, Women For: Orange County, YALLA Indivisible, Youth Alive!, Youth Justice Coalition

**Opposition:** Association for Los Angeles Deputy Sheriffs, Association of Orange County Deputy Sheriff's, California Association of Highway Patrolmen, California Association of Joint Powers Authorities, California Fraternal Order of Police, California Police Chiefs Association, California State Sheriffs' Association, California Statewide Law Enforcement Association, Long Beach Police Officers Association, Los Angeles County Sheriff's Department, Peace Officers Research Association of California (PORAC), Riverside Sheriff's Association, Sacramento County Deputy Sheriffs Association, San Bernardino County Safety Employees' Benefit Association

**STATUS:** Introduced on 12/7/20 and amended on 3/11/21. Scheduled for hearing in the Senate Public Safety Committee on 4/13/21.

AMENDED IN SENATE MARCH 11, 2021

**SENATE BILL**

**No. 2**

**Introduced by Senators Bradford and Atkins**

**(Principal coauthor: Senator Wiener)**

*(Principal coauthors: Assembly Members Cristina Garcia, McCarty,  
and Quirk)*

**(Coauthor: Senator Durazo)**

*(Coauthor: Assembly Member Holden)*

December 7, 2020

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~~An act relating to public employment.~~ *An act to amend Section 52.1 of the Civil Code, to amend Section 1029 of the Government Code, and to amend Sections 832.7, 13503, 13506, 13510, 13510.1, and 13512 of, to amend the heading of Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of, and to add Sections 13509.5, 13509.6, 13510.15, 13510.8, 13510.85, and 13510.9 to, the Penal Code, relating to public employment, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Bradford. Peace officers: certification: civil rights.

*(1) Under existing law, the Tom Bane Civil Rights Act, if a person or persons, whether or not acting under color of law, interferes or attempts to interfere, by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney, is authorized to bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the exercise or*

enjoyment of the right or rights secured. Existing law also authorizes an action brought by the Attorney General, or any district attorney or city attorney, to seek a civil penalty of \$25,000.

This bill would provide that a threat, intimidation, or coercion under the act may be inherent in any interference with a civil right and would describe intentional acts for these purposes as an act in which the person acted with general intent or a conscious objective to engage in particular conduct.

The bill would eliminate certain immunity provisions for peace officers and custodial officers, or public entities employing peace officers or custodial officers sued under the act. The bill would also authorize specified persons to bring an action under the act for the death of a person.

(2) Existing law defines persons who are peace officers and the entities authorized to appoint them. Existing law requires certain minimum training requirements for peace officers including the completion of a basic training course, as specified. Existing law prescribes certain minimum standards for a person to be appointed as a peace officer, including moral character and physical and mental condition, and certain disqualifying factors for a person to be employed as a peace officer, including a felony conviction.

This bill would disqualify a person from being employed as a peace officer if that person has been convicted of, or has been adjudicated in an administrative, military, or civil judicial process as having committed, a violation of certain specified crimes against public justice, including the falsification of records, bribery, or perjury. The bill would also disqualify any person who has been certified as a peace officer by the Commission on Peace Officer Standards and Training and has surrendered that certification or had that certification revoked by the commission, or has been denied certification. The bill would disqualify any person previously employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the national decertification index or who engaged in serious misconduct that would have resulted in their certification being revoked in this state. The bill would require a law enforcement agency employing certain peace officers to employ only individuals with a current, valid certification or pending certification.

(3) Existing law establishes the Commission on Peace Officer Standards and Training to set minimum standards for the recruitment and training of peace officers and to develop training courses and



curriculum. Existing law authorizes the commission to establish a professional certificate program that awards basic, intermediate, advanced, supervisory, management, and executive certificates on the basis of a combination of training, education, experience, and other prerequisites, for the purpose of fostering the professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officers. Existing law authorizes the commission to cancel a certificate that was awarded in error or obtained through misrepresentation or fraud, but otherwise prohibits the commission from canceling a certificate that has properly been issued.

This bill would grant the commission the power to investigate and determine the fitness of any person to serve as a peace officer in the state. The bill would direct the commission to issue or deny certification, which includes a basic certificate or proof of eligibility, to a peace officer in accordance with specified criteria. The bill would require the commission to issue a proof of eligibility or basic certificate, as specified, to certain persons employed as a peace officer on January 1, 2022, who do not otherwise possess a certificate. The bill would require a proof of eligibility or basic certificate to be renewed at least every 2 years and would require the commission to assess a fee for the application and renewal of the certificate or proof of eligibility, as well as an annual certification fee. The bill would require the fees to be deposited into the Peace Officer Certification Fund, created by the bill, and would continuously appropriate those funds to the commission for the administration of the certification program, as specified, thereby making an appropriation. The bill would declare certificates or proof of eligibility awarded by the commission to be property of the commission and would authorize the commission to revoke a proof of eligibility or certificate on specified grounds, including the use of excessive force, sexual assault, making a false arrest, or participating in a law enforcement gang, as defined.

The bill would create the Peace Officer Standards Accountability Division within the commission to investigate and prosecute proceedings to take action against a peace officer's certification. The bill would require the division to review and investigate grounds for decertification and make findings as to whether grounds for action against an officer's certification exist. The bill would require the division to notify the officer subject to decertification of their findings and allow the officer to request review. The bill would also create the Peace Officer Standards

*Accountability Advisory Board with 9 members to be appointed as specified. The bill would require the board to hold public meetings to review the findings after an investigation made by the division and to make a recommendation to the commission. The bill would require the commission to adopt the recommendation of the board if supported by clear and convincing evidence and, if action is to be taken against an officer's certification, return the determination to the division to commence formal proceedings consistent with the Administrative Procedures Act. The bill would require the commission to notify the employing agency and the district attorney of the county in which the officer is employed of this determination, as specified.*

*The bill would make all records related to the revocation of a peace officer's certification public and would require that records of an investigation be retained for 30 years.*

*The bill would require an agency employing peace officers to report to the commission the employment, appointment, or separation from employment of a peace officer, any complaint, charge, allegation, or investigation into the conduct of a peace officer that could render the officer subject to revocation, findings by civil oversight entities, and civil judgements that could affect the officer's certification.*

*In case of a separation from employment or appointment, the bill would require each agency to execute an affidavit-of-separation form adopted by the commission describing the reason for separation. The bill would require the affidavit to be signed under penalty of perjury. By creating a new crime, this bill would impose a state-mandated local program.*

*The bill would require the board to report annually on the activities of the division, board, and commission, relating to the certification program, including the number of applications for certification, the events reported, the number of investigations conducted, and the number of certificates surrendered or revoked.*

*By imposing new requirements on local agencies, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing law, the Tom Bane Civil Rights Act, authorizes a civil action to be brought against a person who, whether or not acting under color of law, interferes with the exercise of another's constitutional and legal rights. Existing law establishes the Commission on Peace Officer Standards and Training to set minimum standards for the recruitment and training of peace officers and to develop training courses and curriculum. Existing law authorizes the commission to establish a professional certificate program that awards certificates on the basis of a combination of training, education, experience, and other prerequisites, for the purpose of fostering the professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officers. Existing law authorizes the commission to cancel a certificate that was awarded in error or obtained through misrepresentation or fraud, but otherwise prohibits the commission from canceling a certificate that has properly been issued.~~

~~This bill would state the intent of the Legislature to enact legislation amending the Tom Bane Civil Rights Act and to provide a decertification process for peace officers.~~

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

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

- 1     *SECTION 1. This act shall be known as the Kenneth Ross Jr.*
- 2     *Police Decertification Act of 2021.*
- 3     *SEC. 2. The Legislature finds and declares all of the following:*
- 4         *(a) As the Legislature and courts of this state have repeatedly*
- 5         *recognized, police officers, sheriffs' deputies, and other peace*
- 6         *officers hold extraordinary powers to detain, to search, to arrest,*
- 7         *and to use force, including deadly force. The state has a*
- 8         *correspondingly strong interest in ensuring that peace officers do*
- 9         *not abuse their authority, including by ensuring that individual*
- 10         *peace officers who abuse their authority are held accountable.*
- 11         *(b) California is one of the last few states that does not have a*
- 12         *process for revoking peace officer certificates as a result of*
- 13         *misconduct. Nationwide, 45 states have the authority to decertify*

1 *peace officers. Four states do not have decertification authority:*  
2 *California, Hawaii, New Jersey, and Rhode Island.*

3 *(c) In 2017, 172 Californians were killed by the police, and our*  
4 *state's police departments have some of the highest rates of killings*  
5 *in the nation. Of the unarmed people California police killed, three*  
6 *out of four were people of color. Black and Latino families and*  
7 *communities of color are disproportionately vulnerable to police*  
8 *violence, creating generations of individual and community trauma.*

9 *(d) More than 200 professions and trades, including doctors,*  
10 *lawyers, and contractors are licensed or certified by the State of*  
11 *California, in order to maintain professional standards and to*  
12 *protect the public. Law enforcement officers are entrusted with*  
13 *extraordinary powers including the power to carry a firearm, to*  
14 *stop and search, to arrest, and to use force. They must be held to*  
15 *the highest standards of accountability, and the state should ensure*  
16 *that officers who abuse their authority by committing serious or*  
17 *repeated misconduct, or otherwise demonstrate a lack of fitness*  
18 *to serve as peace officers, are removed from the streets.*

19 *(e) To ensure public trust that the system for decertification will*  
20 *hold peace officers accountable for misconduct and that*  
21 *California's standards for law enforcement reflect community*  
22 *values, it is the intent of the Legislature that the entities charged*  
23 *with investigating and rendering decisions on decertification shall*  
24 *be under independent civilian control and maintain independence*  
25 *from law enforcement.*

26 *(f) Civil courts provide a vital avenue for individuals harmed*  
27 *by violations of the law by peace officers to find redress and*  
28 *accountability. But the judicially created doctrine of qualified*  
29 *immunity in federal courts, and broad interpretations of California*  
30 *law immunities and restrictive views on the cause of action under*  
31 *the Tom Bane Civil Rights Act, too often lead to officers escaping*  
32 *accountability in civil courts, even when they have broken the law*  
33 *or violated the rights of members of the public. The civil court*  
34 *process should ensure that peace officers are treated fairly, but*  
35 *that they can be held accountable for violations of the law that*  
36 *harm others, especially the use of excessive force.*

37 *SEC. 3. Section 52.1 of the Civil Code is amended to read:*

38 *52.1. (a) This section shall be known, and may be cited, as the*  
39 *Tom Bane Civil Rights Act.*

(b) (1) If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(2) *The threat, intimidation, or coercion required under this section need not be separate or independent from, and may be inherent in, any interference or attempted interference with a right. A person bringing suit under this section need not prove that a person being sued under this section had specific intent to interfere or attempt to interfere with a right secured by the Constitution or law. For any person, public entity, or private entity sued under this section, intentional conduct to interfere or attempt to interfere with a constitutional right or right granted by law or deliberate indifference or reckless disregard for a constitutional right or right granted by law that interferes or attempts to interfere with that right, is sufficient to prove a violation of this section by threat, intimidation, or coercion. For purposes of this section, a person acts "intentionally" when the person acts with general intent or a conscious objective to engage in particular conduct.*

(c) (1) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a); (b), may institute and prosecute in ~~his or her~~ *their* own name and on ~~his or her~~ *their* own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect

1 the peaceable exercise or enjoyment of the right or rights secured,  
2 including appropriate equitable and declaratory relief to eliminate  
3 a pattern or practice of conduct as described in subdivision-(a)-  
4 (b).

5 (2) *A cause of action under this section for the death of a person*  
6 *may be asserted by any person described in Section 377.60 of the*  
7 *Code of Civil Procedure.*

8 (d) An action brought pursuant to subdivision-(a) (b) or-(b) (c)  
9 may be filed either in the superior court for the county in which  
10 the conduct complained of occurred or in the superior court for  
11 the county in which a person whose conduct complained of resides  
12 or has ~~his or her~~ *their* place of business. An action brought by the  
13 Attorney General pursuant to subdivision-(a) (b) also may be filed  
14 in the superior court for any county wherein the Attorney General  
15 has an office, and in that case, the jurisdiction of the court shall  
16 extend throughout the state.

17 (e) If a court issues a temporary restraining order or a  
18 preliminary or permanent injunction in an action brought pursuant  
19 to subdivision-(a) (b) or-(b), (c), ordering a defendant to refrain  
20 from conduct or activities, the order issued shall include the  
21 following statement: VIOLATION OF THIS ORDER IS A CRIME  
22 PUNISHABLE UNDER SECTION 422.77 OF THE PENAL  
23 CODE.

24 (f) The court shall order the plaintiff or the attorney for the  
25 plaintiff to deliver, or the clerk of the court to mail, two copies of  
26 any order, extension, modification, or termination thereof granted  
27 pursuant to this section, by the close of the business day on which  
28 the order, extension, modification, or termination was granted, to  
29 each local law enforcement agency having jurisdiction over the  
30 residence of the plaintiff and any other locations where the court  
31 determines that acts of violence against the plaintiff are likely to  
32 occur. Those local law enforcement agencies shall be designated  
33 by the plaintiff or the attorney for the plaintiff. Each appropriate  
34 law enforcement agency receiving any order, extension, or  
35 modification of any order issued pursuant to this section shall serve  
36 forthwith one copy thereof upon the defendant. Each appropriate  
37 law enforcement agency shall provide to any law enforcement  
38 officer responding to the scene of reported violence, information  
39 as to the existence of, terms, and current status of, any order issued  
40 pursuant to this section.

1 (g) A court shall not have jurisdiction to issue an order or  
2 injunction under this section, if that order or injunction would be  
3 prohibited under Section 527.3 of the Code of Civil Procedure.

4 (h) An action brought pursuant to this section is independent of  
5 any other action, remedy, or procedure that may be available to  
6 an aggrieved individual under any other provision of law,  
7 including, but not limited to, an action, remedy, or procedure  
8 brought pursuant to Section 51.7.

9 (i) In addition to any damages, injunction, or other equitable  
10 relief awarded in an action brought pursuant to subdivision ~~(b)~~;  
11 ~~(c)~~, the court may award the petitioner or plaintiff reasonable  
12 attorney's fees.

13 (j) A violation of an order described in subdivision ~~(d)~~ ~~(e)~~ may  
14 be punished either by prosecution under Section 422.77 of the  
15 Penal Code, or by a proceeding for contempt brought pursuant to  
16 Title 5 (commencing with Section 1209) of Part 3 of the Code of  
17 Civil Procedure. However, in any proceeding pursuant to the Code  
18 of Civil Procedure, if it is determined that the person proceeded  
19 against is guilty of the contempt charged, in addition to any other  
20 relief, a fine may be imposed not exceeding one thousand dollars  
21 (\$1,000), or the person may be ordered imprisoned in a county jail  
22 not exceeding six months, or the court may order both the  
23 imprisonment and fine.

24 (k) Speech alone is not sufficient to support an action brought  
25 pursuant to subdivision ~~(a)~~ ~~(b)~~ or ~~(b)~~ ~~(c)~~, except upon a showing  
26 that the speech itself threatens violence against a specific person  
27 or group of persons; and the person or group of persons against  
28 whom the threat is directed reasonably fears that, because of the  
29 speech, violence will be committed against them or their property  
30 and that the person threatening violence had the apparent ability  
31 to carry out the threat.

32 (l) No order issued in any proceeding brought pursuant to  
33 subdivision ~~(a)~~ ~~(b)~~ or ~~(b)~~ ~~(c)~~ shall restrict the content of any  
34 person's speech. An order restricting the time, place, or manner  
35 of any person's speech shall do so only to the extent reasonably  
36 necessary to protect the peaceable exercise or enjoyment of  
37 constitutional or statutory rights, consistent with the constitutional  
38 rights of the person sought to be enjoined.

1 (m) The rights, penalties, remedies, forums, and procedures of  
2 this section shall not be waived by contract except as provided in  
3 Section 51.7.

4 (n) *The state immunity provisions provided in Sections 821.6,*  
5 *844.6, and 845.6 of the Government Code shall not apply to any*  
6 *cause of action brought against any peace officer or custodial*  
7 *officer, or directly against a public entity that employs a peace*  
8 *officer or custodial officer, under this section.*

9 (o) *Sections 825, 825.2, 825.4, and 825.6 of the Government*  
10 *Code, providing for indemnification of an employee or former*  
11 *employee of a public entity, shall apply to any cause of action*  
12 *brought under this section against an employee or former employee*  
13 *of a public entity.*

14 SEC. 4. Section 1029 of the Government Code is amended to  
15 read:

16 1029. (a) Except as provided in subdivision (b), (c), (d), or  
17 (d), (e), each of the following persons is disqualified from holding  
18 office as a peace officer or being employed as a peace officer of  
19 the state, county, city, city and county or other political subdivision,  
20 whether with or without compensation, and is disqualified from  
21 any office or employment by the state, county, city, city and county  
22 or other political subdivision, whether with or without  
23 compensation, which confers upon the holder or employee the  
24 powers and duties of a peace officer:

25 (1) Any person who has been convicted of a felony.

26 (2) Any person who has been convicted of any offense in any  
27 other jurisdiction which would have been a felony if committed  
28 in this state.

29 (3) *Any person who has been discharged from the military for*  
30 *committing an offense, as adjudicated by a military tribunal, which*  
31 *would have been a felony if committed in this state.*

32 ~~(3)~~

33 (4) Any person who, after January 1, 2004, has been convicted  
34 of a crime based upon a verdict or finding of guilt of a felony by  
35 the trier of fact, or upon the entry of a plea of guilty or nolo  
36 contendere to a felony. This paragraph ~~shall apply~~ *applies*  
37 regardless of whether, pursuant to subdivision (b) of Section 17  
38 of the Penal Code, the court declares the offense to be a  
39 misdemeanor or the offense becomes a misdemeanor by operation  
40 of law.



1 (4)

2 (5) Any person who has been charged with a felony and  
3 adjudged by a superior court to be mentally incompetent under  
4 Chapter 6 (commencing with Section 1367) of Title 10 of Part 2  
5 of the Penal Code.

6 (5)

7 (6) Any person who has been found not guilty by reason of  
8 insanity of any felony.

9 (6)

10 (7) Any person who has been determined to be a mentally  
11 disordered sex offender pursuant to Article 1 (commencing with  
12 Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare  
13 and Institutions Code.

14 (7)

15 (8) Any person adjudged addicted or in danger of becoming  
16 addicted to narcotics, convicted, and committed to a state institution  
17 as provided in Section 3051 of the Welfare and Institutions Code.

18 (9) *Any person who has been convicted of, or adjudicated*  
19 *through an administrative, military, or civil judicial process,*  
20 *including a hearing that meets the requirements of the*  
21 *administrative adjudication provisions of the Administrative*  
22 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*  
23 *Part 1 of Division 3 of Title 2 of the Government Code), as having*  
24 *committed, any act that is a violation of Section 115, 115.3, 116,*  
25 *116.5, or 117 of, or of any offense described in Chapter 1*  
26 *(commencing with Section 92), Chapter 5 (commencing with*  
27 *Section 118), Chapter 6 (commencing with Section 132), or*  
28 *Chapter 7 (commencing with Section 142) of Title 7 of Part 1 of*  
29 *the Penal Code, including any act committed in another jurisdiction*  
30 *that would have been a violation of any of those sections if*  
31 *committed in this state.*

32 (10) *Any person who has been issued the certification described*  
33 *in Section 13510.1 of the Penal Code, and has had that certification*  
34 *revoked by the Commission on Peace Officer Standards and*  
35 *Training, has voluntarily surrendered that certification pursuant*  
36 *to subdivision (f) of Section 13510.8, or having met the minimum*  
37 *requirement for issuance of certification, has been denied issuance*  
38 *of certification.*

39 (11) *Any person previously employed in law enforcement in any*  
40 *state or United States territory or by the federal government, whose*

1 *name is listed in the National Decertification Index of the*  
2 *International Association of Directors of Law Enforcement*  
3 *Standards and Training or whose certification as a law*  
4 *enforcement officer in that jurisdiction was revoked for misconduct,*  
5 *or who, while employed as a law enforcement officer, engaged in*  
6 *serious misconduct that would have resulted in their certification*  
7 *being revoked by the commission if employed as a peace officer*  
8 *in this state.*

9 (b) (1) A plea of guilty to a felony pursuant to a deferred entry  
10 of judgment program as set forth in Sections 1000 to 1000.4,  
11 inclusive, of the Penal Code shall not alone disqualify a person  
12 from being a peace officer unless a judgment of guilty is entered  
13 pursuant to Section 1000.3 of the Penal Code.

14 (2) A person who pleads guilty or nolo contendere to, or who  
15 is found guilty by a trier of fact of, an alternate felony-misdemeanor  
16 drug possession offense and successfully completes a program of  
17 probation pursuant to Section 1210.1 of the Penal Code shall not  
18 be disqualified from being a peace officer solely on the basis of  
19 the plea or finding if the court deems the offense to be a  
20 misdemeanor or reduces the offense to a misdemeanor.

21 (c) Any person who has been convicted of a felony, other than  
22 a felony punishable by death, in this state or any other state, or  
23 who has been convicted of any offense in any other state which  
24 would have been a felony, other than a felony punishable by death,  
25 if committed in this state, and who demonstrates the ability to  
26 assist persons in programs of rehabilitation may hold office and  
27 be employed as a parole officer of the Department of Corrections  
28 *and Rehabilitation* or the ~~Department of the Youth Authority,~~  
29 *Division of Juvenile Justice*, or as a probation officer in a county  
30 probation department, if ~~he or she~~ *the person* has been granted a  
31 full and unconditional pardon for the felony or offense of which  
32 ~~he or she was~~ *they were* convicted. Notwithstanding any other  
33 provision of law, the Department of Corrections *and Rehabilitation*  
34 or the ~~Department of the Youth Authority,~~ *Division of Juvenile*  
35 *Justice*, or a county probation department, may refuse to employ  
36 that person regardless of ~~his or her~~ *their* qualifications.

37 (d) ~~Nothing in this section shall be construed to~~ *This section*  
38 *does not* limit or curtail the power or authority of any board of  
39 police commissioners, chief of police, sheriff, mayor, or other  
40 appointing authority to appoint, employ, or deputize any person

1 as a peace officer in time of disaster caused by flood, fire,  
2 pestilence or similar public calamity, or to exercise any power  
3 conferred by law to summon assistance in making arrests or  
4 preventing the commission of any criminal offense.

5 ~~(e) Nothing in this section shall be construed to~~ *This section*  
6 *does not* prohibit any person from holding office or being employed  
7 as a superintendent, supervisor, or employee having custodial  
8 responsibilities in an institution operated by a probation  
9 department, if at the time of the person's hire a prior conviction  
10 of a felony was known to the person's employer, and the class of  
11 office for which the person was hired was not declared by law to  
12 be a class prohibited to persons convicted of a felony, but as a  
13 result of a change in classification, as provided by law, the new  
14 classification would prohibit employment of a person convicted  
15 of a felony.

16 *SEC. 5. Section 832.7 of the Penal Code is amended to read:*

17 832.7. (a) Except as provided in subdivision (b), the personnel  
18 records of peace officers and custodial officers and records  
19 maintained by any state or local agency pursuant to Section 832.5,  
20 or information obtained from these records, are confidential and  
21 shall not be disclosed in any criminal or civil proceeding except  
22 by discovery pursuant to Sections 1043 and 1046 of the Evidence  
23 Code. This section shall not apply to investigations or proceedings  
24 concerning the conduct of peace officers or custodial officers, or  
25 an agency or department that employs those officers, conducted  
26 by a grand jury, a district attorney's office, ~~or the Attorney~~  
27 ~~General's office.~~ *office, or the Commission on Peace Officer*  
28 *Standards and Training.*

29 (b) (1) Notwithstanding subdivision (a), subdivision (f) of  
30 Section 6254 of the Government Code, or any other law, the  
31 following peace officer or custodial officer personnel records and  
32 records maintained by any state or local agency shall not be  
33 confidential and shall be made available for public inspection  
34 pursuant to the California Public Records Act (Chapter 3.5  
35 (commencing with Section 6250) of Division 7 of Title 1 of the  
36 Government Code):

37 (A) A record relating to the report, investigation, or findings of  
38 any of the following:

39 (i) An incident involving the discharge of a firearm at a person  
40 by a peace officer or custodial officer.

1 (ii) An incident in which the use of force by a peace officer or  
2 custodial officer against a person resulted in death, or in great  
3 bodily injury.

4 (B) (i) Any record relating to an incident in which a sustained  
5 finding was made by any law enforcement agency or oversight  
6 agency that a peace officer or custodial officer engaged in sexual  
7 assault involving a member of the public.

8 (ii) As used in this subparagraph, "sexual assault" means the  
9 commission or attempted initiation of a sexual act with a member  
10 of the public by means of force, threat, coercion, extortion, offer  
11 of leniency or other official favor, or under the color of authority.  
12 For purposes of this definition, the propositioning for or  
13 commission of any sexual act while on duty is considered a sexual  
14 assault.

15 (iii) As used in this subparagraph, "member of the public" means  
16 any person not employed by the officer's employing agency and  
17 includes any participant in a cadet, explorer, or other youth program  
18 affiliated with the agency.

19 (C) Any record relating to an incident in which a sustained  
20 finding was made by any law enforcement agency or oversight  
21 agency of dishonesty by a peace officer or custodial officer directly  
22 relating to the reporting, investigation, or prosecution of a crime,  
23 or directly relating to the reporting of, or investigation of  
24 misconduct by, another peace officer or custodial officer, including,  
25 but not limited to, any sustained finding of perjury, false  
26 statements, filing false reports, destruction, falsifying, or concealing  
27 of evidence.

28 (2) Records that shall be released pursuant to this subdivision  
29 include all investigative reports; photographic, audio, and video  
30 evidence; transcripts or recordings of interviews; autopsy reports;  
31 all materials compiled and presented for review to the district  
32 attorney or to any person or body charged with determining  
33 whether to file criminal charges against an officer in connection  
34 with an incident, or whether the officer's action was consistent  
35 with law and agency policy for purposes of discipline or  
36 administrative action, or what discipline to impose or corrective  
37 action to take; documents setting forth findings or recommended  
38 findings; and copies of disciplinary records relating to the incident,  
39 including any letters of intent to impose discipline, any documents  
40 reflecting modifications of discipline due to the Skelly or grievance

1 process, and letters indicating final imposition of discipline or  
2 other documentation reflecting implementation of corrective action.

3 (3) A record from a separate and prior investigation or  
4 assessment of a separate incident shall not be released unless it is  
5 independently subject to disclosure pursuant to this subdivision.

6 (4) If an investigation or incident involves multiple officers,  
7 information about allegations of misconduct by, or the analysis or  
8 disposition of an investigation of, an officer shall not be released  
9 pursuant to subparagraph (B) or (C) of paragraph (1), unless it  
10 relates to a sustained finding against that officer. However, factual  
11 information about that action of an officer during an incident, or  
12 the statements of an officer about an incident, shall be released if  
13 they are relevant to a sustained finding against another officer that  
14 is subject to release pursuant to subparagraph (B) or (C) of  
15 paragraph (1).

16 (5) An agency shall redact a record disclosed pursuant to this  
17 section only for any of the following purposes:

18 (A) To remove personal data or information, such as a home  
19 address, telephone number, or identities of family members, other  
20 than the names and work-related information of peace and custodial  
21 officers.

22 (B) To preserve the anonymity of complainants and witnesses.

23 (C) To protect confidential medical, financial, or other  
24 information of which disclosure is specifically prohibited by federal  
25 law or would cause an unwarranted invasion of personal privacy  
26 that clearly outweighs the strong public interest in records about  
27 misconduct and serious use of force by peace officers and custodial  
28 officers.

29 (D) Where there is a specific, articulable, and particularized  
30 reason to believe that disclosure of the record would pose a  
31 significant danger to the physical safety of the peace officer,  
32 custodial officer, or another person.

33 (6) Notwithstanding paragraph (5), an agency may redact a  
34 record disclosed pursuant to this section, including personal  
35 identifying information, where, on the facts of the particular case,  
36 the public interest served by not disclosing the information clearly  
37 outweighs the public interest served by disclosure of the  
38 information.

39 (7) An agency may withhold a record of an incident described  
40 in subparagraph (A) of paragraph (1) that is the subject of an active

1 criminal or administrative investigation, in accordance with any  
2 of the following:

3 (A) (i) During an active criminal investigation, disclosure may  
4 be delayed for up to 60 days from the date the use of force occurred  
5 or until the district attorney determines whether to file criminal  
6 charges related to the use of force, whichever occurs sooner. If an  
7 agency delays disclosure pursuant to this clause, the agency shall  
8 provide, in writing, the specific basis for the agency's  
9 determination that the interest in delaying disclosure clearly  
10 outweighs the public interest in disclosure. This writing shall  
11 include the estimated date for disclosure of the withheld  
12 information.

13 (ii) After 60 days from the use of force, the agency may continue  
14 to delay the disclosure of records or information if the disclosure  
15 could reasonably be expected to interfere with a criminal  
16 enforcement proceeding against an officer who used the force. If  
17 an agency delays disclosure pursuant to this clause, the agency  
18 shall, at 180-day intervals as necessary, provide, in writing, the  
19 specific basis for the agency's determination that disclosure could  
20 reasonably be expected to interfere with a criminal enforcement  
21 proceeding. The writing shall include the estimated date for the  
22 disclosure of the withheld information. Information withheld by  
23 the agency shall be disclosed when the specific basis for  
24 withholding is resolved, when the investigation or proceeding is  
25 no longer active, or by no later than 18 months after the date of  
26 the incident, whichever occurs sooner.

27 (iii) After 60 days from the use of force, the agency may  
28 continue to delay the disclosure of records or information if the  
29 disclosure could reasonably be expected to interfere with a criminal  
30 enforcement proceeding against someone other than the officer  
31 who used the force. If an agency delays disclosure under this  
32 clause, the agency shall, at 180-day intervals, provide, in writing,  
33 the specific basis why disclosure could reasonably be expected to  
34 interfere with a criminal enforcement proceeding, and shall provide  
35 an estimated date for the disclosure of the withheld information.  
36 Information withheld by the agency shall be disclosed when the  
37 specific basis for withholding is resolved, when the investigation  
38 or proceeding is no longer active, or by no later than 18 months  
39 after the date of the incident, whichever occurs sooner, unless  
40 extraordinary circumstances warrant continued delay due to the

1 ongoing criminal investigation or proceeding. In that case, the  
2 agency must show by clear and convincing evidence that the  
3 interest in preventing prejudice to the active and ongoing criminal  
4 investigation or proceeding outweighs the public interest in prompt  
5 disclosure of records about use of serious force by peace officers  
6 and custodial officers. The agency shall release all information  
7 subject to disclosure that does not cause substantial prejudice,  
8 including any documents that have otherwise become available.

9 (iv) In an action to compel disclosure brought pursuant to  
10 Section 6258 of the Government Code, an agency may justify  
11 delay by filing an application to seal the basis for withholding, in  
12 accordance with Rule 2.550 of the California Rules of Court, or  
13 any successor rule thereto, if disclosure of the written basis itself  
14 would impact a privilege or compromise a pending investigation.

15 (B) If criminal charges are filed related to the incident in which  
16 force was used, the agency may delay the disclosure of records or  
17 information until a verdict on those charges is returned at trial or,  
18 if a plea of guilty or no contest is entered, the time to withdraw  
19 the plea pursuant to Section 1018.

20 (C) During an administrative investigation into an incident  
21 described in subparagraph (A) of paragraph (1), the agency may  
22 delay the disclosure of records or information until the investigating  
23 agency determines whether the use of force violated a law or  
24 agency policy, but no longer than 180 days after the date of the  
25 employing agency's discovery of the use of force, or allegation of  
26 use of force, by a person authorized to initiate an investigation, or  
27 30 days after the close of any criminal investigation related to the  
28 peace officer or custodial officer's use of force, whichever is later.

29 (8) A record of a civilian complaint, or the investigations,  
30 findings, or dispositions of that complaint, shall not be released  
31 pursuant to this section if the complaint is frivolous, as defined in  
32 Section 128.5 of the Code of Civil Procedure, or if the complaint  
33 is unfounded.

34 (c) Notwithstanding subdivisions (a) and (b), a department or  
35 agency shall release to the complaining party a copy of ~~his or her~~  
36 *the party's* own statements at the time the complaint is filed.

37 (d) Notwithstanding subdivisions (a) and (b), a department or  
38 agency that employs peace or custodial officers may disseminate  
39 data regarding the number, type, or disposition of complaints  
40 (sustained, not sustained, exonerated, or unfounded) made against

1 its officers if that information is in a form which does not identify  
2 the individuals involved.

3 (e) Notwithstanding subdivisions (a) and (b), a department or  
4 agency that employs peace or custodial officers may release factual  
5 information concerning a disciplinary investigation if the officer  
6 who is the subject of the disciplinary investigation, or the officer's  
7 agent or representative, publicly makes a statement ~~he or she knows~~  
8 *that they know* to be false concerning the investigation or the  
9 imposition of disciplinary action. Information may not be disclosed  
10 by the peace or custodial officer's employer unless the false  
11 statement was published by an established medium of  
12 communication, such as television, radio, or a newspaper.  
13 Disclosure of factual information by the employing agency  
14 pursuant to this subdivision is limited to facts contained in the  
15 officer's personnel file concerning the disciplinary investigation  
16 or imposition of disciplinary action that specifically refute the false  
17 statements made public by the peace or custodial officer or ~~his or~~  
18 *her* ~~their~~ agent or representative.

19 (f) (1) The department or agency shall provide written  
20 notification to the complaining party of the disposition of the  
21 complaint within 30 days of the disposition.

22 (2) The notification described in this subdivision shall not be  
23 conclusive or binding or admissible as evidence in any separate  
24 or subsequent action or proceeding brought before an arbitrator,  
25 court, or judge of this state or the United States.

26 (g) This section does not affect the discovery or disclosure of  
27 information contained in a peace or custodial officer's personnel  
28 file pursuant to Section 1043 of the Evidence Code.

29 (h) This section does not supersede or affect the criminal  
30 discovery process outlined in Chapter 10 (commencing with  
31 Section 1054) of Title 6 of Part 2, or the admissibility of personnel  
32 records pursuant to subdivision (a), which codifies the court  
33 decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

34 (i) Nothing in this chapter is intended to limit the public's right  
35 of access as provided for in *Long Beach Police Officers*  
36 *Association v. City of Long Beach* (2014) 59 Cal.4th 59.

37 *SEC. 6. Section 13503 of the Penal Code is amended to read:*

38 13503. In carrying out its duties and responsibilities, the  
39 commission shall have all of the following powers:

40 (a) To meet at those times and places as it may deem proper.



1 (b) To employ an executive secretary and, pursuant to civil  
2 service, those clerical and technical assistants as may be necessary.

3 (c) To contract with other agencies, public or private, or persons  
4 as it deems necessary, for the rendition and affording of those  
5 services, facilities, studies, and reports to the commission as will  
6 best assist it to carry out its duties and responsibilities.

7 (d) To cooperate with and to secure the cooperation of county,  
8 city, city and county, and other local law enforcement agencies in  
9 investigating any matter within the scope of its duties and  
10 responsibilities, and in performing its other functions.

11 (e) To develop and implement programs to increase the  
12 effectiveness of law enforcement and when those programs involve  
13 training and education courses to cooperate with and secure the  
14 cooperation of state-level officers, agencies, and bodies having  
15 jurisdiction over systems of public higher education in continuing  
16 the development of college-level training and education programs.

17 (f) *To investigate and determine the fitness of any person to*  
18 *serve as a peace officer in the state of California.*

19 (f)

20 (g) To cooperate with and secure the cooperation of every  
21 department, agency, or instrumentality in the state government.

22 (h) *To audit any law enforcement agency that employs peace*  
23 *officers described in subdivision (a) of Section 13510.1, without*  
24 *cause and at any time.*

25 (g)

26 (i) To do any and all things necessary or convenient to enable  
27 it fully and adequately to perform its duties and to exercise the  
28 power granted to it.

29 ~~(h) The commission shall not have the authority to adopt or~~  
30 ~~carry out a regulation that authorizes the withdrawal or revocation~~  
31 ~~of a certificate previously issued to a peace officer pursuant to this~~  
32 ~~chapter.~~

33 ~~(i) Except as specifically provided by law, the commission shall~~  
34 ~~not have the authority to cancel a certificate previously issued to~~  
35 ~~a peace officer pursuant to this chapter.~~

36 *SEC. 7. Section 13506 of the Penal Code is amended to read:*

37 13506. The commission may adopt those regulations as are  
38 necessary to carry out the purposes of this chapter. ~~The commission~~  
39 ~~shall not have the authority to adopt or carry out a regulation that~~  
40 ~~authorizes the withdrawal or revocation of a certificate previously~~

1 ~~issued to a peace officer pursuant to this chapter. Except as~~  
2 ~~specifically provided by law, the commission shall not have the~~  
3 ~~authority to adopt regulations providing for the cancellation of a~~  
4 ~~certificate.~~

5 *SEC. 8. Section 13509.5 is added to the Penal Code, to read:*

6 *13509.5. (a) There is within the commission a Peace Officer*  
7 *Standards Accountability Division, hereafter referred to in this*  
8 *chapter as the division.*

9 *(b) The primary responsibilities of the division shall be to review*  
10 *potential grounds for decertification of peace officers, conduct*  
11 *investigations into serious misconduct that may provide grounds*  
12 *for decertification, present findings and recommendations to the*  
13 *board and commission, and bring proceedings seeking the*  
14 *revocation of certification of peace officers as directed by the*  
15 *board and commission pursuant to this chapter.*

16 *(c) The Governor and the commission shall ensure the division*  
17 *is staffed with a sufficient number of experienced and able*  
18 *employees that are capable of handling the most complex and*  
19 *varied types of decertification investigations, prosecutions, and*  
20 *administrative proceedings against peace officers.*

21 *(d) The commission shall establish procedures for accepting*  
22 *complaints from members of the public regarding peace officers*  
23 *or law enforcement agencies that may be investigated by the*  
24 *division or referred to the peace officers' employing agency or the*  
25 *Department of Justice.*

26 *SEC. 9. Section 13509.6 is added to the Penal Code, to read:*

27 *13509.6. (a) No later than January 1, 2023, the Governor*  
28 *shall establish the Peace Officer Standards Accountability Advisory*  
29 *Board, hereafter referred to in this chapter as the board.*

30 *(b) The purpose of the board shall be to make recommendations*  
31 *on the decertification of peace officers to the commission.*

32 *(c) The protection of the public shall be the highest priority for*  
33 *the board as it upholds the standards for peace officers in*  
34 *California. Whenever the protection of the public is inconsistent*  
35 *with other interests sought to be promoted, the protection of the*  
36 *public shall be paramount.*

37 *(d) The board shall consist of nine members, as follows:*

38 *(1) One member shall be a peace officer or former peace officer*  
39 *with substantial experience at a command rank, appointed by the*  
40 *Governor.*

1     (2) One member shall be a peace officer or former peace officer  
2 with substantial experience at a management rank in internal  
3 investigations or disciplinary proceedings of peace officers,  
4 appointed by the Governor.

5     (3) Two members shall be members of the public, who shall not  
6 be former peace officers, who have substantial experience working  
7 at nonprofit or academic institutions on issues related to police  
8 misconduct. One of these members shall be appointed by the  
9 Governor and one by the Speaker of the Assembly.

10    (4) Two members shall be members of the public, who shall not  
11 be former peace officers, who have substantial experience working  
12 at community-based organizations on issues related to police  
13 misconduct. One of these members shall be appointed by the  
14 Governor and one by the Senate Rules Committee.

15    (5) Two members shall be members of the public, who shall not  
16 be former peace officers, who have been subject to wrongful use  
17 of force likely to cause death or serious bodily injury by a peace  
18 officer, or who are surviving family members of a person killed  
19 by the wrongful use of deadly force by a peace officer, appointed  
20 by the Governor.

21    (6) One member shall be an attorney, who shall not be a former  
22 peace officer, with substantial professional experience involving  
23 oversight of peace officers, appointed by the Governor.

24    (e) Except as otherwise provided in subdivision (f), each member  
25 shall be appointed for a term of three years and shall hold office  
26 until the appointment of the member's successor or until one year  
27 has elapsed since the expiration of the term for which the member  
28 was appointed, whichever occurs first. Vacancies occurring shall  
29 be filled by appointment for the unexpired term of a person with  
30 the same qualification for appointment as the person being  
31 replaced. No person shall serve more than two terms consecutively.  
32 The Governor shall remove from the board any peace officer  
33 member whose certification as a peace officer has been revoked.  
34 The Governor may, after hearing, remove any member of the board  
35 for neglect of duty or other just cause.

36    (f) Of the members initially appointed to the board, three shall  
37 be appointed for a term of one year, three for a term of two years,  
38 and three for a term of three years. Successor appointments shall  
39 be made pursuant to subdivision (e).

(g) Each member of the board shall receive a per diem of three hundred fifty dollars (\$350) for each day actually spent in the discharge of official duties, including reasonable time spent in preparation for public hearings, and shall be reimbursed for travel and other expenses necessarily incurred in the performance of official duties. Upon request of a member based on financial necessity, the commission shall arrange and make direct payment for travel or other necessities rather than providing reimbursement.

SEC. 10. The heading of Article 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part 4 of the Penal Code is amended to read:

~~Article 2. Field Services and Standards for Recruitment and Training Services, Standards, and Certification~~

SEC. 11. Section 13510 of the Penal Code is amended to read:

13510. (a) (1) For the purpose of raising the level of competence of local law enforcement officers, the commission shall adopt, and may from time to time amend, rules establishing and upholding minimum standards relating to physical, mental, and moral fitness that shall govern the recruitment of any city police officers, peace officer members of a county sheriff's office, marshals or deputy marshals, peace officer members of a county coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, or housing authority police departments.

The

(2) The commission also shall adopt, and may from time to time amend, rules establishing minimum standards for training of city police officers, peace officer members of county sheriff's offices, marshals or deputy marshals, peace officer members of a county

coroner's office notwithstanding Section 13526, reserve officers, as defined in subdivision (a) of Section 830.6, police officers of a district authorized by statute to maintain a police department, peace officer members of a police department operated by a joint powers agency established by Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, regularly employed and paid inspectors and investigators of a district attorney's office, as defined in Section 830.1, who conduct criminal investigations, peace officer members of a district, safety police officers and park rangers of the County of Los Angeles, as defined in subdivisions (a) and (b) of Section 830.31, and housing authority police departments.

~~These~~

(3) *These* rules shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter and shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards to include vision, hearing, physical ability, and emotional stability. Job-related standards that are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) For the purpose of raising the level of competence of local public safety dispatchers, the commission shall adopt, and may from time to time amend, rules establishing minimum standards relating to the recruitment and training of local public safety dispatchers having a primary responsibility for providing dispatching services for local law enforcement agencies described in subdivision (a), which standards shall apply to those cities, counties, cities and counties, and districts receiving state aid pursuant to this chapter. These standards also shall apply to consolidated dispatch centers operated by an independent public joint powers agency established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code when providing dispatch services to the law enforcement personnel listed in subdivision (a). Those rules shall

1 be adopted and amended pursuant to Chapter 3.5 (commencing  
2 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
3 Government Code. As used in this section, "primary responsibility"  
4 refers to the performance of law enforcement dispatching duties  
5 for a minimum of 50 percent of the time worked within a pay  
6 period.

7 (d) ~~Nothing in this section shall~~ *This section does not prohibit*  
8 a local agency from establishing selection and training standards  
9 that exceed the minimum standards established by the commission.

10 *SEC. 12. Section 13510.1 of the Penal Code is amended to*  
11 *read:*

12 13510.1. (a) The commission shall establish a certification  
13 program for peace officers ~~specified in Sections 13510 and 13522~~  
14 ~~and for the California Highway Patrol. Certificates of the~~  
15 ~~commission established described in Section 830.1, 830.2 with the~~  
16 ~~exception of those described in subdivision (d) of that section,~~  
17 ~~830.3, 830.32, or 830.33, or any other peace officer employed by~~  
18 ~~an agency that participates in the Peace Officer Standards and~~  
19 ~~Training (POST) program. A certificate or proof of eligibility~~  
20 ~~issued pursuant to this section shall be considered professional~~  
21 ~~certificates. the property of the commission.~~

22 (b) Basic, intermediate, advanced, supervisory, management,  
23 and executive certificates shall be established for the purpose of  
24 fostering professionalization, education, and experience necessary  
25 to adequately accomplish the general police service duties  
26 performed by peace officer members of city police departments,  
27 county sheriffs' departments, districts, university and state  
28 university and college departments, or by the California Highway  
29 Patrol.

30 (c) (1) Certificates shall be awarded on the basis of a  
31 combination of training, education, experience, and other  
32 prerequisites, as determined by the commission.

33 (2) In determining whether an applicant for certification has the  
34 requisite education, the commission shall recognize as acceptable  
35 college education only the following:

36 (A) Education provided by a community college, college, or  
37 university which has been accredited by the department of  
38 education of the state in which the community college, college, or  
39 university is located or by a recognized national or regional  
40 accrediting body.

1 (B) Until January 1, 1998, educational courses or degrees  
2 provided by a nonaccredited but state-approved college that offers  
3 programs exclusively in criminal justice.

4 (d) Persons who are determined by the commission to be eligible  
5 peace officers may make application for the certificates, provided  
6 they are employed by an agency which participates in the Peace  
7 Officer Standards and Training (POST) program. *POST program.*  
8 *Any person described in subdivision (a) who is not eligible for a*  
9 *certificate shall make application for proof of eligibility.*

10 (e) *The commission shall assign each person who applies for*  
11 *or receives certification a unique identifier that shall be used to*  
12 *track certification status from application for certification through*  
13 *that person's career as a peace officer.*

14 (e)  
15 (f) The commission shall have the authority to ~~cancel any~~  
16 ~~certificate that has been obtained through misrepresentation or~~  
17 ~~fraud or that was issued as the result of an administrative error on~~  
18 ~~the part of the commission or the employing agency; suspend,~~  
19 ~~revoke, or cancel any certification pursuant to this chapter.~~

20 (g) *An agency that employs peace officers described in*  
21 *subdivision (a) shall employ as a peace officer only individuals*  
22 *with current, valid certification pursuant to this section, except*  
23 *that an agency may provisionally employ a person for up to 24*  
24 *months, pending certification by the commission, provided that*  
25 *the person has applied for certification and has not previously*  
26 *been certified or denied certification.*

27 (h) (1) *Notwithstanding subdivision (d), the commission shall*  
28 *issue a basic certificate or proof of eligibility to any peace officer*  
29 *described in subdivision (a) who, on January 1, 2022, is eligible*  
30 *for a basic certificate or proof of eligibility but has not applied*  
31 *for a certification.*

32 (2) *Commencing on January 1, 2022, any peace officer*  
33 *described in subdivision (a) who does not possess a basic*  
34 *certificate and who is not yet or will not be eligible for a basic*  
35 *certificate, shall apply to the commission for proof of eligibility.*

36 (i) *As used in this chapter, "certification" means a valid and*  
37 *unexpired basic certificate or proof of eligibility issued by the*  
38 *commission pursuant to this section.*

39 SEC. 13. *Section 13510.15 is added to the Penal Code,*  
40 *immediately following Section 13510.1, to read:*

1 13510.15. (a) Every basic certificate issued before January  
2 1, 2022, shall be deemed to expire on January 1, 2023. Every basic  
3 certificate or proof of eligibility issued on or after January 1, 2022,  
4 shall be valid for no more than two years, as determined by the  
5 commission.

6 (b) The commission shall assess the following fees related to  
7 the issuance and renewal of a basic certificate or proof of  
8 eligibility:

9 (1) A fee not to exceed three hundred dollars (\$300) for the  
10 initial issuance of a basic certificate or proof of eligibility.

11 (2) A fee not to exceed fifty dollars (\$50) for the renewal of an  
12 expiring basic certificate or proof of eligibility.

13 (3) An annual certification fee not to exceed two hundred fifty  
14 dollars (\$250), per year, for costs incident to the administration  
15 of the certification program, investigations of officer misconduct,  
16 and adjudication of certification revocations.

17 (4) Any other fees determined necessary by the commission for  
18 the processing of other transactions related to the certification  
19 program, including, but not limited to, the replacement of a lost  
20 or destroyed certificate or proof of eligibility, the placement of  
21 certification on inactive status, or reactivation of an inactive  
22 certification.

23 (c) The amount of the fees shall be set and may be adjusted by  
24 the commission, but shall not exceed the reasonable regulatory  
25 cost to the commission of administering the certification program.

26 (d) Moneys collected pursuant to this section shall be deposited  
27 into the Peace Officer Certification Fund, which is hereby created  
28 as a special fund in the State Treasury. Notwithstanding Section  
29 13340 of the Government Code, moneys in the Peace Officer  
30 Certification Fund are continuously appropriated to the  
31 commission for the purpose of administering the certification  
32 program.

33 SEC. 14. Section 13510.8 is added to the Penal Code, to read:

34 13510.8. (a) A certified peace officer shall have their  
35 certification revoked, and an applicant shall have their application  
36 for certification denied, upon a determination pursuant to  
37 subdivision (d) that the peace officer or applicant has done any  
38 of the following:

39 (1) The person is or has become ineligible to hold office as a  
40 peace officer pursuant to Section 1029 of the Government Code.



1     (2) *The person has been terminated for cause from employment*  
2 *as a peace officer for, or has, while employed as a peace officer,*  
3 *otherwise engaged in, any serious misconduct as described in*  
4 *subdivision (b).*

5     (b) *By January 1, 2023, the commission shall adopt by*  
6 *regulation a definition of “serious misconduct” that shall serve*  
7 *as the criteria to be considered for ineligibility for, or revocation*  
8 *of, certification. This definition shall, without limitation, include*  
9 *all of the following:*

10    (1) *Acts of dishonesty relating to the reporting, investigation,*  
11 *or prosecution of a crime, or relating to the reporting of, or*  
12 *investigation of misconduct by, a peace officer or custodial officer,*  
13 *including, but not limited to, false statements, filing false reports,*  
14 *tampering with, falsifying, destroying, or concealing evidence,*  
15 *perjury, and tampering with data recorded by a body-worn camera*  
16 *or other recording device for purposes of concealing misconduct.*

17    (2) *Acts of abuse of power, including, but not limited to,*  
18 *intimidating witnesses, knowingly obtaining a false confession,*  
19 *and knowingly making a false arrest.*

20    (3) *Acts of physical abuse, including, but not limited to, the*  
21 *unauthorized use of force.*

22    (4) *Sexual assault, as described in subdivision (b) of Section*  
23 *832.7.*

24    (5) *Acts demonstrating bias on the basis of race, national origin,*  
25 *religion, gender identity or expression, housing status, sexual*  
26 *orientation, mental or physical disability, or other protected status*  
27 *in violation of law or department policy or inconsistent with a*  
28 *peace officer’s obligation to carry out their duties in a fair and*  
29 *unbiased manner.*

30    (6) *Acts that violate the law and are sufficiently egregious or*  
31 *repeated as to be inconsistent with an officer’s obligation to uphold*  
32 *the law or respect the rights of members of the public, as*  
33 *determined by the commission.*

34    (7) *Participation in a law enforcement gang or other*  
35 *organization that engages in a pattern of rogue on-duty behavior*  
36 *that violates the law or fundamental principles of professional*  
37 *policing, including, but not limited to, unlawful detention, use of*  
38 *excessive force, falsifying police reports, fabricating evidence,*  
39 *targeting persons for enforcement based solely on protected*  
40 *characteristics of those persons, theft, use of alcohol or drugs on*

1 duty, protection of other members from disciplinary actions, and  
2 retaliation against other officers who threaten or interfere with  
3 the activities of the group.

4 (8) Failure to cooperate with an investigation into potential  
5 police misconduct, including an investigation conducted pursuant  
6 to this chapter.

7 (c) (1) Beginning no later than January 1, 2023, the division  
8 shall promptly review and investigate any grounds for  
9 decertification described in subdivision (a) received from an  
10 agency.

11 (2) In addition to the requirement to investigate incidents  
12 specified in paragraph (1), the commission or board, in their  
13 discretion, may direct the division to investigate, and the division  
14 in its discretion may investigate without the request of the  
15 commission or board, any potential grounds for revocation of  
16 certification of an officer.

17 (3) The division, in carrying out any investigation initiated  
18 pursuant to this section or any other duty shall have all of the  
19 powers of investigation granted pursuant to Article 2 (commencing  
20 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title  
21 2 of the Government Code.

22 (4) Notwithstanding any other law, the investigation shall be  
23 completed within three years after the receipt of the completed  
24 report of the disciplinary or internal affairs investigation from the  
25 employing agency pursuant to Section 13510.9, however, no time  
26 limit shall apply if a report of the conduct was not made to the  
27 commission. An investigation shall be considered completed upon  
28 a notice of intent to deny or revoke certification issued pursuant  
29 to subdivision (e). The time limit shall be tolled during the appeal  
30 of a termination or other disciplinary action through an  
31 administrative or judicial proceeding or during any criminal  
32 prosecution of the officer. The commission shall consider the  
33 officer's prior conduct and service record, and any instances of  
34 misconduct, including any incidents occurring beyond the time  
35 limitation for investigation in evaluating whether to revoke  
36 certification for the incident under investigation.

37 (5) An action by an agency or decision resulting from an appeal  
38 of an agency's action does not preclude action by the commission  
39 to investigate, suspend, or revoke an officer's certification pursuant  
40 to this section.

1 (d) Upon arrest or indictment of an officer for any crime  
2 described in Section 1029 of the Government Code, or discharge  
3 from any law enforcement agency for grounds set forth in  
4 subdivision (a), or separation from employment of an officer during  
5 a pending investigation into allegations of serious misconduct, the  
6 executive director shall order the immediate suspension of any  
7 certificate held by that officer upon the determination by the  
8 executive director that the suspension is in the best interest of the  
9 health, safety, or welfare of the public. The order of suspension  
10 shall be made in writing and shall specify the basis for the  
11 executive director's determination. Following the issuance of a  
12 suspension order, proceedings of the commission in the exercise  
13 of its authority to discipline any officer shall be promptly scheduled  
14 as provided for in this section. The suspension shall continue in  
15 effect until issuance of the final decision on revocation pursuant  
16 to this section or until the order is withdrawn by the executive  
17 director.

18 (e) Records of an investigation of any person by the commission  
19 shall be retained for 30 years following the date that the  
20 investigation is deemed concluded by the commission. The  
21 commission may destroy records prior to the expiration of the  
22 30-year retention period if the subject is deceased and no action  
23 upon the complaint was taken by the commission beyond the  
24 commission's initial intake of such complaint.

25 (f) Any peace officer may voluntarily surrender their  
26 certification permanently. Voluntary permanent surrender of  
27 certification pursuant to this subdivision shall have the same effect  
28 as revocation. Voluntary permanent surrender is not the same as  
29 placement of a valid certification into inactive status during a  
30 period in which a person is not actively employed as a peace  
31 officer. A permanently surrendered certification cannot be  
32 reactivated.

33 (g) (1) The commission may initiate proceedings to revoke an  
34 officer's certification for conduct which occurred before January  
35 1, 2022, only for either of the following:

36 (A) Serious misconduct pursuant to paragraphs (1) or (4) of  
37 subdivision (b), or pursuant to paragraph (3) of subdivision (b)  
38 for the use of deadly force that results in death or serious bodily  
39 injury.

1 (B) If the employing agency makes a final determination  
2 regarding its investigation of the misconduct after January 1, 2022.

3 (2) Nothing in this subdivision prevents the commission from  
4 considering the officer's prior conduct and service record in  
5 determining whether revocation is appropriate for serious  
6 misconduct.

7 SEC. 15. Section 13510.85 is added to the Penal Code,  
8 immediately following Section 13510.8, to read:

9 13510.85. (a) (1) When, upon the completion of an  
10 investigation conducted pursuant to subdivision (c) of Section  
11 13510.8, the division finds reasonable grounds for revocation of  
12 a peace officer's certification, it shall promptly notify the officer  
13 involved, in writing, of its determination and reasons therefore,  
14 and shall provide the officer with a detailed explanation of the  
15 decertification procedure and the officer's rights to contest and  
16 appeal.

17 (2) Upon notification, the officer may, within 30 days, file a  
18 request for a review of the determination by the board and  
19 commission. If the officer does not file a request for review within  
20 30 days, the officer's certification shall be revoked without further  
21 proceedings. If the officer files a timely review, the board shall  
22 schedule the case for hearing.

23 (3) The board shall meet as required to conduct public hearings,  
24 but no fewer than four times per year. The location of the board's  
25 meetings shall be varied across the state to facilitate attendance  
26 by involved officers and members of the public in the locality where  
27 the cases arise.

28 (4) At each public hearing, the board shall review the findings  
29 of investigations presented by the division pursuant to paragraph  
30 (1) and shall make a recommendation on what action should be  
31 taken on the certification of the peace officer involved. The board  
32 shall only recommend revocation if the factual basis for revocation  
33 is established by clear and convincing evidence.

34 (5) The commission shall review all recommendations made by  
35 the board and shall adopt the board's recommendation unless it  
36 is without a reasonable basis. In any case in which the commission  
37 reaches a different determination than the board's  
38 recommendation, it shall set forth its analysis and reasons for  
39 reaching a different determination in writing.