
THIRD READING

Bill No: SB 960
Author: Skinner (D)
Amended: 3/10/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/22/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Public employment: peace officers: citizenship

SOURCE: University of California

DIGEST: This bill removes provisions of existing law requiring peace officers to either be a citizen of the United States or be a permanent resident who is eligible for and has applied for citizenship.

ANALYSIS:

Existing law:

- 1) Requires each class of public officers or employees declared by law to be peace officers to meet the following minimum standards:
 - a) Be a citizen of the United States or a permanent resident who is eligible for and has applied for citizenship.
 - b) Be 18 years of age or older.
 - c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.
 - d) Be of good moral character, as determined by a thorough background investigation.
 - e) Be a high school graduate, or satisfy another minimum educational requirement, as specified.

- f) Be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer. (Gov. Code §1031(a)-(f).)
- 2) Contains an exemption from this citizenship requirement for individuals employed as peace officers or peace officer trainees, or applicants to become a peace officer who were so employed or had applied prior to the adoption of that requirement, provided that they apply for and meet the requirements for United States citizenship as soon as possible. (Gov. Code §1031.5(a).)
- 3) Provides that any resident immigrant who is employed as a peace officer shall diligently cooperate with the United States Citizenship and Immigration Services in the processing of the officer's application for citizenship, and shall be disqualified from being a peace officer if citizenship is not obtained within three years of applying due to the officer's failure to cooperate in the processing of the application. Gov. Code §1035(b.).
- 4) Provides that any permanent resident immigrant who is employed as a peace officer shall be disqualified from holding that position if the officer's application for citizenship is denied. (Gov. Code §1031.5(c).)
- 5) Provides that no person shall be appointed as a member of the California Highway Patrol who is not a citizen of the United States. (Veh. Code §2267(a).)
- 6) Provides that a non-citizen member of the California Highway Patrol appointed prior to the effective date of Vehicle Code §2267(a) shall become a United States citizen at the earliest possible time, and that inability or failure to comply with this requirement shall result in termination of employment. (Veh. Code §2267(b).)

This bill deletes all of the above requirements related to the citizenship or lawful permanent residency of peace officers.

Comments

According to the author, "SB 960 simply removes the citizenship provision from the California peace officer employment requirement. It is an archaic requirement that is not inclusive or representative of the diverse population of people that make up our great state. In recent years, California has created numerous opportunities for anyone to apply for a myriad of careers. Many undocumented residents can pay in-state tuition at UC, CSU and the Community Colleges or be issued drivers licenses. They are eligible to serve as lawyers, practice medicine as physicians or nurses, and are eligible to receive professional licenses from the 43 CA Boards and

Bureaus under the Department of Consumer Affairs. However, there is one profession that remains out of reach for undocumented immigrants in California - serving as peace officers in the cities and communities where they grew up. This bill would act as an effective recruitment tool for the department and improve the current relationship between law enforcement and communities of color by increasing the visibility and representation of people from the neighborhood.”

In recent years, law enforcement agencies around the country have experienced mounting challenges related to the recruitment and retention of sworn personnel. A survey conducted by the Police Executive Research Forum in June 2021 found that the departments surveyed were, on average, filling only 93% of the authorized number of positions available.¹ While this does seem striking at first glance, this number belies the fact that many larger departments are seeing dramatic drops in staffing.

While some argue that much of the shortfall is a direct result of vaccine mandates for public employees, the scope and duration of the shortage suggests that larger structural forces are at play. For instance, departments staffed by a higher proportion of baby boomers are seeing a wave of retirements, at a time when the attitude of millennials and “gen-Xers” toward police are changing. In addition, increased awareness of police misconduct, especially in low-income areas and communities of color, has sown greater mistrust of police in these communities, making it more difficult for agencies to draw local applicants. Economically, low unemployment rates and a strong job market mean that prospective applicants have multiple options when seeking employment, many of which involve less rigorous entrance requirements.

Currently, over 40 states have statutes, regulations, or administrative rules in place that restrict the ability of law enforcement agencies to employ non-citizens.² Most of these states – California included – have statewide citizenship requirements, or a requirement that a non-citizen peace officer is at least a lawful permanent resident of the United States.³ Only three states have no statewide citizenship requirement for peace officers: Colorado, Vermont, and West Virginia. However, despite the absence of a citizenship requirement, federal law requires that any non-citizen that seeking employment in the United States must be authorized to work in the country

¹ “Survey on Police Workforce Trends.” *Police Executive Research Forum Special Report*. 11 June 2021. <https://www.policeforum.org/workforcesurveyjune2021>

² “Advancing Diversity in Law Enforcement.” *U.S. Department of Justice Equal Employment Opportunity Commission*. October 2016. <https://www.justice.gov/crt/case-document/file/900761/download> ; “Backgrounder: Jurisdictions Permitting LPR Hiring.” *Law Enforcement Immigration Task Force (LEITF)*. August 2021. <https://leitf.org/wp-content/uploads/2021/08/LPR-Hiring-Of-Law-Enforcement.pdf>

³ *Ibid*; For reference, a “lawful permanent resident” is a non-citizen who has been granted authorization to live and work in the United States on a permanent basis, commonly referred to as having a “green card.”

by the United States Citizenship and Immigration Services (USCIS), via either an immigrant or non-immigrant visa.⁴ Thus, by omitting the citizenship requirement in state law, law enforcement agencies in these three states are permitted to hire anyone who is work authorized by USCIS. This bill seeks to add California to that category.

As mentioned previously, a handful of states currently do not have statewide citizenship requirements for peace officers. However, even within these states, some local jurisdictions and individual law enforcement agencies have mandated their own citizenship requirements. In Colorado, for instance, despite the absence of a statewide citizenship requirement, the Cities of Aurora and Boulder require applicants to be lawful permanent residents, and the Cities of Denver and El Paso require applicants to be citizens.⁵ This bill does not include any provision explicitly precluding local jurisdictions and agencies from instituting their own citizenship requirements.

FISCAL EFFECT: Appropriation: No Fiscal Com.:Yes Local:No

SUPPORT: (Verified 4/4/22)

University of California (source)
California Police Chiefs Association
California Public Defenders Association
City of Oakland

OPPOSITION: (Verified 4/4/22)

California Statewide Law Enforcement Association
Peace Officers Research Association of California
Riverside County Sheriff's Office

ARGUMENTS IN SUPPORT: According to the California Public Defenders Association:

“There are many able, qualified individuals who desire to do something for the community by working in law enforcement but are ineligible because they are

⁴ 8 CFR §247a.12; see also, “Statutes and Regulations.” *United States Citizenship and Immigration Services* website. <https://www.uscis.gov/i-9-central/form-i-9-resources/statutes-and-regulations>

⁵ Denver’s citizenship requirement, which is incorporated in the city’s charter, only applies to its police and fire departments. However, in 2016, the United States DOJ took legal action against the Denver Sheriff’s Department for turning away non-citizens. The agency now accepts non-citizen applicants. For more about this, see <https://www.justice.gov/opa/pr/justice-department-settles-immigration-related-discrimination-claim-against-denver-sheriff>

not citizens. Among them, are individuals known as “dreamers” who were raised and educated in the United States but are undocumented and thus, unable to become peace officers.

Effective policing requires peace officers who are part of the communities they police. It is also important that members of law enforcement reflect the diverse communities they serve. No one who is otherwise qualified and desires to become a police officer to help improve the communities in which they were raised or in which they live should be denied the opportunity simply because they are not United States citizens. With law enforcement staffing shortages across the state, increasing the pool of potential peace officers is critical and SB 960 will help do just that.”

ARGUMENTS IN OPPOSITION: According to the Riverside County Sheriff’s Office:

“In 1982, the United States Supreme Court in *Cabell v. Chavez-Salido*. 454 U.S. 432, 102 S. Ct. 735, 70 L. Ed. 2d 677 (1982) ruled that a provision in the California Government Code that requires peace officers to be United States citizens was, 1) not unconstitutional, 2) not discriminatory, and 3) California probation officers sufficiently partake in the sovereign's power to exercise coercive force of an individual that they may be limited to citizens. [...]

“Aside from well-established legal precedent, becoming a United States citizen subjects the applicant to a thorough criminal background check conducted by the United States government. This ensures our government does not permit a violent felon, serious criminal offender, sexual predator, or someone with terrorist ties or propensities to live and work among our citizenries. [...] If this bill becomes law, our background investigators would not have the legal authority or investigative tools necessary to communicate with a hostile foreign nation over a non-citizen applicant’s criminal or potential terrorist background. [...]

“We cannot expect a non-citizen to uphold the principles and ideologies of our Constitution if they themselves have not pledged allegiance to our country.”

Prepared by: Alex Barnett / PUB. S. /
4/6/22 14:13:50

**** END ****