

THIRD READING

Bill No: SB 938
Author: Menjivar (D), et al.
Amended: 4/23/26
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-1, 4/21/26
AYES: Arreguín, Caballero, Cortese, Pérez, Wiener
NOES: Seyarto

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/14/26
AYES: Cervantes, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

SUBJECT: Peace officers: qualifications

SOURCE: Central American Resource Center

DIGEST: This bill disqualifies a person from becoming a California Peace Officer if they were employed as a sworn law enforcement officer by a federal law enforcement agency engaged in immigration enforcement and personally assisted with immigration enforcement, as specified.

ANALYSIS:

Existing law:

- 1) Establishes the Commission on Peace Officer Standards and Training (POST) to set minimum standards for the recruitment and training of peace officers, develop training courses and curriculum, and establish a professional certificate program that awards different levels of certification based on training, education, experience, and other relevant prerequisites. (Penal Code (Pen. Code) §§ 830-832.10; 13500 et seq.)

- 2) Requires every peace officer in California to satisfactorily complete an introductory training course prescribed by POST, as specified. (Pen. Code, § 832, subd. (a).)
- 3) Requires POST to establish a certification program for peace officers, as defined, and provides that basic, intermediate, advanced, supervisory, management, and executive certificates shall be established for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officers. (Pen. Code § 13510.1, subds. (a)-(b).)
- 4) Prohibits generally California law enforcement agencies from using agency moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified, from placing officers under the supervision of federal agencies for the purpose of immigration enforcement, and from cooperating in other specified ways with federal immigration authorities. (Government Code (Gov. Code) § 7284.6, subd. (a).)
- 5) Provides that notwithstanding the above limitations, and in accordance with local laws and agency policies, California law enforcement agencies are not prohibited from conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, so long as the following conditions are met:
 - a) The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined.
 - b) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.
 - c) Participation in the task force by a California law enforcement agency does not violate any local law or policy to which it is otherwise subject. (Gov. Code, § 7284.6, subd. (b).)
- 6) Requires POST to adopt by regulation a definition of “serious misconduct” that shall serve as the criteria for consideration for ineligibility for, or revocation of, certification of a peace officer, and provides that that definition must include specific types of misconduct. (Pen. Code § 13510.8, subd. (b).)
- 7) Requires a law enforcement agency to conduct a background check on a peace officer or prospective officer, as provided. (Gov. Code, § 1030.)

- 8) Provides that each class of public officers or employees declared by law to be peace officers shall meet specified minimum standards, including that:
 - a) They be legally authorized to work in the United States under federal law.
 - 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, pass the General Education Development Test or other high school equivalency test, or have attained a two-year, four-year, or advanced degree from an accredited college or university, as specified.
 - f) Be found to be free of any physical, emotional, or mental condition including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer. (Gov. Code, § 1031.)
- 9) Provides that each of the following persons is disqualified from being a peace officer in California:
 - a) Any person who has been convicted of a felony.
 - b) Any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in this state.
 - c) Any person who has been discharged from the military for committing an offense, as adjudicated by a military tribunal, which would have been a felony if committed in this state.
 - d) Any person who has been convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony.
 - e) Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent
 - f) Any person who has been found not guilty by reason of insanity of any felony.

- g) Any person who has been determined to be a mentally disordered sex offender.
- h) Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution.
- i) Any person convicted or adjudicated to have committed a crime involving moral turpitude, as specified.
- j) Any person that has been issued a peace officer certificate by POST and had that certification revoked or an application for certification denied.
- k) 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 of the International Association of Directors of Law Enforcement Standards and Training or any other database designated by the federal government whose certification as a law enforcement officer in that jurisdiction was revoked for misconduct, or who, while employed as a law enforcement officer, engaged in serious misconduct that would have resulted in their certification being revoked by the commission if employed as a peace officer in this state. (Gov. Code, § 1029.)

This bill:

- 1) Provides that any person who, on or after January 20, 2025, was employed as a sworn law enforcement officer by a federal agency engaged in immigration enforcement and personally assisted with immigration enforcement is disqualified from being a peace officer in the state of California.
- 2) Provides that an individual disqualified pursuant to the above may apply for eligibility only after a minimum cooling-off period of 10 years from the date of separation from prior the federal immigration enforcement agency.
- 3) Specifies that the disqualification provision does not apply to an individual who, before January 1, 2027, is employed as a peace officer in this state, is in the process of being hired as a peace officer in this state, or is enrolled in or has completed the basic course to be a peace officer in this state.
- 4) Defines “immigration enforcement” as any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration

law that penalizes a person's presence in, entry or reentry to, or employment in, the United States.

- 5) Specifies that it shall not be construed to regulated federal immigration enforcement activities, preclude any individual from federal employment, or interfere with federal authority granted under law.

Comments

Becoming a peace officer in California is a relatively rigorous process, requiring candidates to meet a range of minimum standards. Under existing law, prospective peace officers must be legally authorized to work in the United States under federal law, be 18 years of age or older, pass a background check, and be of good moral character, as determined by a thorough background investigation. Additionally, prospective peace officers must found to be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer, as evaluated by a licensed physician for the physical fitness aspect and a specified psychiatric specialist or psychologist for the mental and emotional aspects. Regarding educational requirements, while existing law requires peace officer candidates to have at least a high school diploma, recent legislation (AB 992 (Irwin), Chapter 175, Statutes of 2025) requires most classes of peace officers, commencing January 1, 2031, to obtain either an associate's degree, a bachelor's degree, a newly-created "modern policing degree," or a "professional policing certificate" within 36 months of receiving their basic certificate from POST.

A newer feature of California's process for vetting prospective and current peace officers is POST's mandatory certification process, created by SB 2 (Bradford, Chapter 409, Statutes of 2021). Under SB 2, POST administers an extensive certification program for peace officers, who must receive a proof of eligibility and a basic certificate in order to serve in that capacity. Additionally, SB 2 provides a mechanism by which POST may investigate and review allegations of "serious misconduct" against an officer, where "serious misconduct" is defined to include a host of behaviors unbecoming a peace officer, such as dishonesty, abuse of power, criminal behaviors, demonstration of bias, participation in a law enforcement gang, and others. After a lengthy review and investigation process, POST has the discretion to issue a certificate to a prospective officer, or to suspend or revoke an existing officer's certification. Additionally, law enforcement agencies are required to report a range of personnel actions to POST for their review, including the hiring of any officer.

In addition to the minimum standards and required certification described above, certain factors disqualify a person from becoming a peace officer, including a host of outcomes related to the commission of a felony crime, including a felony conviction or the commission of an offense in another jurisdiction which would be a felony if committed in this state; military discharge for an offense which would be a felony if committed in this state; and conviction for a felony even if the court reduces the offense to a misdemeanor or the offense becomes a misdemeanor by operation of law. Also disqualified are individuals who were charged with a felony but found mentally incompetent to stand trial or not guilty by reason of insanity, individuals adjudged to be mentally disordered sex offenders, individuals adjudged to be addicted or in danger of becoming addicted to narcotics, and individual convicted of, or adjudicated through specified administrative, military or civil judicial processes as having committed certain crimes involving moral turpitude and other crimes against public justice. Finally, and perhaps most relevant to this bill, existing law disqualifies any person who 1) has received a POST certification and either surrendered the certification or had it revoked, 2) has met the minimum requirements for the issuance of a certification but nonetheless was denied certification by POST, and 3) any person previously employed in law enforcement in any state or by the federal government, whose name is listed in the National Decertification Index or any other database designated by the federal government whose certification as a law enforcement officer in that jurisdiction was revoked for misconduct, or who, while employed as a law enforcement officer, engaged in serious misconduct that would have resulted in decertification by POST if employed as a peace officer in this state.

This bill adds to the preceding list of disqualified individuals any person who, on or after January 20, 2025, were employed as a sworn law enforcement officer by a federal agency engaged in immigration enforcement and personally assisted with immigration enforcement. However, this provision does not apply to an individual who, before January 1, 2027, is employed as a peace officer in California, is in the process of being hired as a peace officer, or is enrolled in or has completed the POST basic course. Additionally, the bill specifies that an individual disqualified pursuant to its provisions may be eligible for peace officer employment after a minimum “cooling off” period of 10 years from the date of separation from the federal immigration enforcement agency. For a more expansive discussion of policy and constitutional issues raised by this bill’s provisions, see the analysis prepared by the Senate Committee on Public Safety, pp. 8-10.

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

According to the Senate Appropriations Committee:

Minor costs to state law enforcement agencies (General Fund, special funds).

Minor costs to local law enforcement agencies. To the extent this bill would impose additional duties on local law enforcement agencies, this bill would impose a state-mandated local program (General Fund).

SUPPORT: (Verified 5/14/26)

Central American Resource Center (source)
California Public Defenders Association
1 Individual

OPPOSITION: (Verified 5/14/26)

California Association of Highway Patrolmen
California Police Chiefs Association
California State Sheriffs' Association
Peace Officers Research Association of California

Prepared by: Alex Barnett / PUB. S. /
5/14/26 16:30:25

**** **END** ****