



STAFF REPORT

City Council
Meeting Date: 7/16/2020
Staff Report Number: 20-151-CC

Regular Business: City Council discussion and direction regarding City response and action to residents and visitors' requests for local police reform.

Recommendation

Staff recommends that the City Council direct the Mayor to sign letters of support in connection with the following four pending California bills relative to police reform.

Analysis

The following four bills relating to police reform are currently pending in the California legislature and have a fairly good chance of making their way to the Governor this legislative season. This list and the current status was assembled with the assistance of Council Member Carlton who serves on the League of California Cities Public Safety Legislative Committee.

SB 731 (formally SB 1392) Bradford Kenneth Ross Jr. Police Decertification Act of 2020

Status: passed Senate unanimously and referred to Assembly Committee.

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. It 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:

- declare certificates awarded by the commission to be property of the commission and would authorize the commission to revoke a certificate on specified grounds, including the use of excessive force, sexual assault, making a false arrest, engaging in unprofessional conduct, or any act or omission indicative of bad moral character.
- grant the commission the power to investigate and determine the fitness of any person to serve as a peace officer, and require the commission to refer grounds for decertification to the Civil Rights Enforcement Section of the Department of Justice for investigation, which would then determine whether the certification should be denied or revoked, as specified.
- would make all records related to the revocation of a certificate public and would require that records of an investigation be retained for 30 years.
- 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 describing the reason for separation.

- would require the commission to report annually on the number of applications for certification, the events reported, the number of investigations conducted, and the number of certificates revoked.

Existing law requires minimum training requirements and prescribes minimum standards for a person to be appointed as a peace officer, including moral character and physical and mental condition, and 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 specified crimes against public justice, including the falsification of records, bribery, or perjury.
- disqualify any person who has been issued a certificate by the Commission on Peace Officer Standards and Training and had that certificate revoked by the commission, has voluntarily surrendered the certificate, or was denied issuance of a certificate.
- require a law enforcement employing peace officers to employ only individuals with a current, valid certification or pending certification.

SB 776 Skinner Peace officers: release of records

Status: passed Senate and referred to Assembly Committee on public safety

Existing law:

- makes peace officer and custodial officer personnel records and specified records maintained by any state or local agency confidential and prohibits these records from being disclosed in any criminal or civil proceeding except by discovery.
- sets forth policy exceptions, including records relating to incidents involving the discharge of a firearm, sexual assault, perjury, or misconduct by a peace officer or custodial officer.
- makes a record related to an incident involving the use of force against a person resulting in death or great bodily injury subject to disclosure
- requires a state or local agency to make these excepted records available for inspection pursuant to the California Public Records Act.

This bill would:

- make every incident involving use of force subject to disclosure.
- remove the requirement that a complaint relating to sexual assault or dishonesty be found to be sustained following an investigation in order to be subject to disclosure.
- require records relating to sustained findings of wrongful arrests and wrongful searches to be subject to disclosure.
- require the disclosure of records relating to an incident involving discrimination or prejudice on the basis of specified protected classes.
- require the retention of all complaints currently in the possession of a department or agency.
- require that records relating to an incident in which an officer resigned before an investigation is completed to also be subject to release.
- prohibit assertion of the attorney-client privilege, for purposes of releasing records, to limit the disclosure of factual information provided by the public entity to its attorney, factual information discovered by any investigation done by the public entity's attorney, or billing records related to the work done by the attorney.

- impose a \$1,000 civil fine per day for each day beyond 30 days that records subject to disclosure are not disclosed.
- entitle a member of the public who successfully files suit for the release of records to twice the party's reasonable costs and attorney's fees.

Existing law requires an agency or department employing peace officers to make a record of any investigations of misconduct and requires a peace officer seeking employment with a department or agency to give written permission to the hiring agency or department to view that file.

This bill would:

- require each department/ agency to request and review that file prior to hiring a peace officer.
- require every person employed as a peace officer to immediately report all uses of force by the officer to the officer's department or agency. By imposing additional duties on local law enforcement, this bill would impose a state-mandated local program.

Existing law requires a court, in determining the relevance of evidence, to exclude from trial any information consisting of complaints concerning peace officer conduct that is more than 5 years older than the subject of the litigation.

This bill would delete that provision.

AB 1299 Salas - Bi-partisan principal co-authors Grove, Hurtado Peace officer employment

Status: passed Assembly and referred to Senate Committee on Public Safety

Existing laws:

- defines persons who are peace officers and the entities authorized to appoint them.
- requires certain minimum training requirements for peace officers
- prescribes certain minimum standards for a person to be appointed as a peace officer, including moral character and physical and mental conditions, and certain disqualifying factors for a person to be employed as a peace officer, including a felony conviction.
- 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.

This bill would:

- require any agency that employs peace officers to notify the commission when a peace officer separates from employment, including details of any termination or resignation in lieu of termination.
- require an agency to notify the commission if an officer leaves the agency with a complaint, charge, or investigation pending, and would require the agency to complete the investigation and notify the commission of its findings.
- would require the commission to include this information in an officer's profile and make that information available to specified parties including any law enforcement agency that is conducting a preemployment background investigation of the subject of the profile.

SB 733 Skinner Emergencies: State 911 Advisory Board

Status: passed Senate and referred to Assembly Committee on Governmental Organization

Existing law:

The Warren-911-Emergency Assistance Act establishes the State 911 Advisory Board to advise the Office of Emergency Services on specified subjects relating to the state's 911 emergency telephone response system. The board is comprised of 11 members from various stakeholder groups, including law enforcement, and is appointed by the Governor.

This bill would:

- establish an advisory board to look at how local 911 systems can shift to relying on social services personnel to respond to non-violent calls.
- Modify composition of advisory board to include one representative of the California Welfare Directors Association, one county public guardian, and one county mental health professional.

Report prepared by:

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