SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

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Author:	Menjivar		
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Consultant:	AB		

Subject: ***Peace officers: qualifications***

HISTORY

Source: Central American Resource Center

Prior Legislation: AB 992 (Irwin), Ch. 175, Stats. of 2025
SB 2 (Bradford), Ch. 409, Stats. of 2021
AB 17 (Cooper), not heard in Assembly Public Safety, 2021
AB 1022 (Holden), held in Senate Appropriations Committee, 2019
SB 221 (Romero), Ch. 297, Stats. of 2003

Support: California Public Defenders Association

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

PURPOSE

The purpose of this bill is to disqualify a person from becoming a California peace officer if they assisted with federal immigration enforcement by a federal immigration enforcement agency, unless the person has been separated from that federal agency for a minimum of 10 years.

Existing law 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. (Pen. Code, §§ 830-832.10; 13500 et seq.)

Existing law requires every peace officer in California to satisfactorily complete an introductory training course prescribed by POST, as specified. (Pen. Code, § 832, subd. (a).)

Existing law 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).)

Existing law, the California Values Act, generally prohibits 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. (Gov. Code, § 7284.6, subd. (a).)

Existing law 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:

- The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined.
- The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.
- 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).)

Existing law authorizes POST to suspend or revoke the certification of a peace officer if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct, as described. (Pen. Code, § 13510.8, subd. (a)(2).)

Existing law 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. The definition shall include all of the following:

- Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct.
- Abuse of power, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.
- Physical abuse, including, but not limited to, the excessive or unreasonable use of force.
- Sexual assault.
- Demonstrating bias on the basis of race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner. This paragraph does not limit an employee's rights under the First Amendment to the United States Constitution.

- Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by POST.
- Participation in a law enforcement gang.
- Failure to cooperate with an investigation into potential police misconduct.
- Failure to intercede when present and observing another officer using force that is clearly beyond what is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject. (Pen. Code, § 13510.8, subd. (b).)

Existing law requires a law enforcement agency to conduct a background check on a peace officer or prospective officer, as provided. (Gov. Code, § 1030.)

Existing law provides that each class of public officers or employees declared by law to be peace officers shall meet specified minimum standards, including that:

- They be legally authorized to work in the United States under federal law.
- Be 18 years of age or older.
- Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.
- Be of good moral character, as determined by a thorough background investigation.
- 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.
- 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.)

Existing law commencing January 1, 2031 requires all peace officers, except as specified, to attain one or more specified degrees or certificates no later than 36 months after receiving their basic certificate by the commission, including an associates degree, a bachelor's degree, a modern policing degree or a professional policing certificate. (Gov. Code, § 1031.5.)

Existing law provides that each of the following persons is disqualified from being a peace officer in California:

- Any person who has been convicted of a felony.
- Any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in this state.
- 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.
- 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.
- Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent
- Any person who has been found not guilty by reason of insanity of any felony.

- Any person who has been determined to be a mentally disordered sex offender.
- Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution.
- Any person convicted or adjudicated to have committed a crime involving moral turpitude, as specified.
- Any person that has been issued a peace officer certificate by POST and had that certification revoked or an application for certification denied.
- 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.

This bill provides that any person who, on or after January 20, 2025, assisted with federal immigration enforcement by a federal immigration enforcement agency is disqualified from becoming a California peace officer.

This bill provides, that an individual disqualified pursuant to the above provision may apply for eligibility only after a minimum cooling-off period of 10 years from the date of separation from the prior federal immigration agency.

This bill 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.

This bill 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.

This bill 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

1. Need for This Bill

According to the author:

> It is the duty of the State of California to ensure that our law enforcement officers are held to the highest standards, training, and qualifications. Most law enforcement agencies have built long lasting trust with the communities in which they serve and this bill seeks to protect that trust. SB 938 clearly states that state

and local law enforcement agencies shall not employ, as a peace officer, any individual who, on or after January 20, 2025, assisted in any civil immigration enforcement activity. These individuals may only apply after a minimum 10-year cooling-off period from the date of separation in assisting the federal immigration agency.

There have been instances noting their blatant disregard for life in the notable cases where these individuals assisting in immigration enforcement have fatally shot at the community and boasted about it. This was heard in the recent bicameral Senate hearing where text messages amongst ICE agents were released, referring to shooting Marimar Martinez. An ICE agent texted about firing "five rounds" and her having "7 holes on her body" and further stated, "put that in your book boys," to which another responded, "oh well, it is what it is," and another wrote, "s-t happens."[1] We should be deeply wary of allowing anyone with this type of mentality stepping into roles within our state and local law enforcement.

2. Background on Recent Immigration Enforcement Operations

During his second campaign for president in 2023-2024, Donald Trump vowed that if re-elected, he would carry out the largest deportation program in American history. Reporting by the New York Times called Trump's second term plans "an extreme expansion of his first-term crackdown on immigration […] including preparing to round up undocumented people already in the United States on a vast scale and detain them in sprawling camps while they wait to be expelled."[2] Throughout the campaign, Trump regularly asserted that he would deport between 15 and 20 million people, far beyond the estimated number of undocumented immigrants, and constituting an action that would cost taxpayers roughly $1 trillion over 10 years.[3]

On the day of his second inauguration, President Trump issued more than a dozen executive actions aimed at realizing his ambitious mass detention and deportation agenda. Among them was a proclamation titled "Guaranteeing the States Protection Against Invasion," in which he cited the flow of migrants across the southern border of the United States as a justification for invoking constitutional authority to protect each of the states against invasion, and thereby expanded the authority and discretion of the Department of Defense and the Department of Homeland Security to carry out immigration-related functions.[4] He also signed Executive Order 14159 with the familiar sounding title "Protecting the American People Against Invasion," which provides that "[i]t is the policy of the United States to faithfully execute the immigration laws against all inadmissible and removable aliens, particularly those aliens who threaten the safety or security of the American people. Further, it is the policy of the United States to achieve the total and efficient enforcement of those laws, including through lawful incentives and detention capabilities."[5] Notable provisions of EO 14159 include: 1) directing the Department of Homeland Security (DHS) to set enforcement priorities, emphasizing criminal histories; 2)

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[1] https://www.msn.com/en-us/news/us/ice-agent-sent-disgusting-text-bragging-about-firing-five-rounds-into-chicago-woman-s-body/ar-AA1VE7G2

[2] "Sweeping Raids, Giant Camps and Mass Deportations: Inside Trump's 2025 Immigration Plans." *New York Times*. 11 November 2023. https://www.nytimes.com/2023/11/11/us/politics/trump-2025-immigration-agenda.html

[3] "A Donald Trump mass deportation of immigrants would cost hundreds of billions, report says." *Sacramento Bee*. 2 October 2024. https://www.sacbee.com/news/politics-government/capitol-alert/article293359389.html

[4] Proclamation 10888. 20 January 2025. 90 Fed. Register 8333-8336; U.S. Const. Art. IV, Section 4.

[5] Executive Order 14159. 20 January 2025. 90 Fed. Register 8443. https://www.whitehouse.gov/presidential-actions/2025/01/protecting-the-american-people-against-invasion/

establishing Homeland Security Task Forces in each state; 3) requiring all noncitizens to register with DHS, with civil and criminal penalties for failure to register; 4) directing DHS to collect all civil fines and penalties from undocumented individuals, such as for unlawful entry or attempted unlawful entry; 5) expanding the use of expedited removal; 6) building more detention facilities; 7) encouraging federal/state cooperation, as specified; 8) encouraging voluntary departure, as specified; 9) limiting access to humanitarian parole and Temporary Protected Status; 10) directing the U.S. AG and DHS to ensure that "sanctuary" jurisdictions do not receive access to federal funds; 11) reviewing federal grants to non-profits assisting undocumented persons and denying public benefits to undocumented persons; and 12) hiring more U.S. Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) officers.[6]

On January 25, 2025, ICE field offices were told that each office must detain at least 75 noncitizens every day, or more than 1,800 per day nationwide.[7] To hold more detainees, the Trump Administration opened Guantanamo Bay and sent detained individuals there in February, and has also started sending detained individuals to a mega-prison in El Salvador, in many cases before their due process rights can be vindicated.[8] On July 4, 2025, President Trump signed the One Big Beautiful (OBB) Act, a gargantuan domestic policy bill that, among other provisions, allocates more than $170 billion for immigration enforcement through 2029. The OBB Act increases the annual budget of Immigration and Customs Enforcement (ICE) from $8.7 billion to approximately $27.7 billion, with $75 billion appropriated to the agency over the next four years. With this unprecedented budget increase, ICE is slated to have a higher annual budget than the militaries of Italy, Brazil, Israel, and nearly 20 other countries in the top 40 of military spenders.[9] This funding will go almost exclusively toward immigration enforcement, detention and deportation operations.[10]

The Trump Administration's ramp-up of immigration enforcement has been accompanied by aggressive recruitment efforts, including attempts by federal immigration agencies to lure state peace officers.[11] ICE has taken steps to significantly expand hiring, such as giving out $50,000 signing bonuses, offering student loan forgiveness, lowering the age limit for recruits from 21 to 18, and waiving the 37-year-old hiring cap, among others.[12] But amid this hiring surge, evidence has surfaced that ICE had misrepresented the rigor of its training for new officers, including legal training over whether they are permitted to use deadly force. According to a recent whistleblower account, training for new officers has been pared down to the point where it is

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[6] *Ibid.*
[7] Washington Post, *Trump Officials Issue Quotas to ICE Officers to Ramp up Arrests*, January 26, 2025, https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota
[8] M. Lee, AP News, *Immigration Officials Defend Authority to Hold Migrants at Guantanamo Bay*, March 10, 2025, https://apnews.com/article/us-immigration-detention-guantanamo-bay-d4fe8f0d051e0cd7e3f04ce02c8e7564 ; M. Aleman, AP News, *Venezuelan Migrants Deported by the US Ended up in a Salvadoran Prison. This is Their Legal Status*, March 25, 2025, https://apnews.com/article/el-salvador-trump-tren-de-aragua-venezuela-dde4259e5dcd502101b7b8fbd3c03659
[9] "ICE Budget Now Bigger Than Most of the World's Militaries." *Newsweek*. 2 July 2025. https://www.newsweek.com/immigration-ice-bill-trump-2093456
[10] "Explainer: One Big Beautiful Bill Act: Immigration Provisions." *Immigration Forum*. 7 July 2025. https://forumtogether.org/article/one-big-beautiful-bill-act-immigration-provisions/
[11] "ICE offers big bucks – but California police officers prove tough to poach." *Los Angeles Times* 22 September 2025, available at: https://www.latimes.com/california/story/2025-09-22/ice-poaching-cops
[12] Ray and Sanchez, "ICE expansion has outpaced accountability. What are the remedies?" *Brookings* 26 January 2026. Available at: https://www.brookings.edu/articles/ice-expansion-has-outpaced-accountability-what-are-the-remedies/

"deficient, defective and broken."[13] Moreover, a recent review by the Associated Press found that at least two dozen ICE employees and contractors have been charged with crimes since 2020, including 9 such instances in 2025 alone.[14] According to the report, while most cases happened before the passage of the OBB Act, "experts say such crimes could accelerate given the volume of new employees and their empowerment to use aggressive tactics to deport people."[15]

3. Existing Peace Officer Prerequisites and Effect of This Bill

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.[16] 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.[17] 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.[18]

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, Ch. 409, Stats. 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.[19] 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.[20] 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.[21]

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[13] "ICE whistleblower accuses agency of 'deficient, defective and broken' training amid hiring surge." *The Hill*. 23 February 2026. https://thehill.com/homenews/administration/5751455-ice-officer-training-whistleblower/
[14] "Takeaways from AP's review of recent criminal cases against ICE employees and contractors." *Associated Press.* 10 February 2026. https://apnews.com/article/ice-agents-arrested-misconduct-abuse-corruption-charged-d3aeb8c20191fa357f87078fc169cc17
[15] *Ibid.*
[16] Gov. Code, §§ 1030, 1031, subds. (a)-(d).
[17] Gov. Code, § 1031, subd. (f).
[18] Gov. Code, § 1031.5; these new educational standards require prospective peace officers to complete at least 16 semester units or 24 quarter units of education beyond the current requirement of a high school diploma.
[19] Pen. Code § 13510.1; for more information on certification, see https://post.ca.gov/Certification
[20] The full list is codified at Pen. Code, § 13510.8, subd. (b)(1)-(9).
[21] Pen. Code, §§ 13510.1, 13510.7, 13510.8, 13510.85, 13510.9

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.[22] 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.[23] 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.[24]

This bill adds to the preceding list of disqualified individuals any person who, on or after January 20, 2025, assisted with federal immigration enforcement by a federal immigration enforcement agency. 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.[25] 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.

The bill's provisions raise several questions that the author and Committee may wish to consider. Chiefly, the bill disqualifies any person from peace officer employment who "assisted" with federal immigration enforcement, where "immigration enforcement" is defined "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." Given the potential breadth of the term "assisted" as applied in this bill, federal employees that may have had only a passing or nominal role in an immigration-related process – such as clerical or IT staff at an immigration agency – would be barred from peace officer employment. This issue is compounded by the fact that the Trump Administration is employing a "whole of government" approach to immigration, enlisting nearly every major Cabinet-level agency in enforcement

[22] Gov. Code, § 1029, subd. (a)(1)-(4).
[23] Gov. Code, § 1029, subd. (a)(5)-(9).
[24] Gov. Code, § 1029, subd. (a)(10)-(11).
[25] Per Pen. Code, § 832, all California peace officers must complete an introductory (or "basic") training course prescribed by POST.

efforts.[26] For instance, after a recently lawsuit, the federal Department of Health and Human Services (HHS) was authorized to resume sharing Medicaid data with deportation officers – is HHS a federal immigration enforcement agency for the purposes of this bill?[27] Should an HHS employee that plays only a ministerial role in processing that data be barred from being a peace officer in California? More generally, should the bill's disqualification provision apply to any employee of a federal agency that is not traditionally involved in immigration enforcement?

Another set of questions is raised by the "cooling off" provision, which states that a disqualified individual "may apply for eligibility only after a minimum cooling-off period of 10 years from the date of separation from the prior federal immigration enforcement agency." Presumably, this 10-year washout period is intended to create some distance between the prospective peace officer and any disfavored or problematic conduct, not unlike existing ethics rules (so-called "revolving door" rules) preventing elected officials from engaging in lobbying for a specified period of time.[28] However, much like those revolving door restrictions, the 10-year washout period here raises the question of how the passage of a particular (potentially arbitrary) length of time meaningfully alleviates concerns about bias, judgement and public trust. Relatedly, it seems unlikely that an individual who intended to transition into a peace officer role after federal service would still be pursuing that career path after such a prolonged delay. In addition, the cooling off provision specifies that the disqualified individual "may apply for eligibility" after the 10-year period, but it is unclear to whom such an application would be made – perhaps the intent is simply to specify that such a person is eligible for peace officer employment upon the conclusion of the 10-year period.

Recall that under existing law, an individual is disqualified from employment as a peace officer in California if, while employed as a law enforcement officer for a federal agency or in another state, they engaged in serious misconduct that would have resulted in decertification by POST if employed as a peace officer in this state.[29] California law defines "serious misconduct" as including "abuse of power," as specified, "physical abuse, including, but not limited to excessive or unreasonable use of force, […] demonstrating bias on the basis of race, national origin […] or other protected status," and "acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the commission," among others.[30] Is this list of misconduct that would, under existing law, disqualify a former federal immigration enforcement employee from peace officer employment, sufficient to address the conduct at issue?

4. Constitutional Considerations

State laws that conflict with federal laws or attempt to regulate the federal government may be invalided for several reasons. The Supremacy Clause of the U.S. Constitution provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound

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[26] "In the Trump administration, nearly every major department is an immigration agency." *Associated Press.* 20 February 2025. <https://apnews.com/article/immigration-border-enforcement-trump-rubio-bondi-hegseth-fb0c2a5351334f4615706033b820bf92>

[27] "After judge's ruling, HHS authorized to resume sharing some Medicaid data with deportation officers." *Associated Press*. 5 January 2026. https://apnews.com/article/medicaid-data-hhs-rfk-sharing-immigration-trump-30784ce01a403a16aca504980e4c7bc9

[28] See Gov. Code, §87406, subd. (b)(1).

[29] Gov. Code, § 1029, subd. (a)(11).

[30] Pen. Code, § 13510.8, subd. (b)(1)-(9).

thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."[31] The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution, and demands that "the activities of the Federal Government are free from regulation by any state."[32] This makes a state regulation invalid if it "regulates the United States directly or discriminates against the Federal Government or those with whom it deals."[33] Whether a state law "directly regulates" the federal government demands a functional inquiry into whether the regulations at issue "interfere with or control the operations of the federal government."[34] Moreover, "a state or local law discriminates against the federal government if it treats a state entity more favorably than it treats a comparable federal entity."[35] However, it is well settled that generally applicable state laws can apply to federal entities.[36] It should be noted that "the scope of a federal contractor's protection from state law under the Supremacy Clause is substantially narrower than that of a federal employee or other federal instrumentality."[37]

While it is unlikely that a court would conclude that this bill directly regulates the federal government by "obstructing the federal government's operations" or "constraining the conduct of federal agents,"[38] this bill is potentially vulnerable to a challenge on intergovernmental immunity grounds in that it disqualifies individuals from obtaining employment as peace officers in California based solely on the individual's prior employment with a "federal immigration enforcement agency," and thus possibly discriminates against employees of the federal government. Indeed, the Ninth Circuit Court of Appeal has held that "a state law may not 'single out' the federal government for greater burdens 'than that which applies elsewhere in the State,' even where the statute seeks to address a specific harm controlled by the federal government."[39] The author and Committee should be aware of this potential constitutional infirmity.

5. Related Legislation

This bill is one of four measures introduced this year aimed at restricting the employment of individuals previously employed by federal immigration authorities or engaged in federal immigration enforcement. SB 1332 (Gonzalez) disqualifies any person employed by ICE between January 20, 2025 and January 20, 2029 from state employment, and is currently awaiting a hearing in the Senate Labor, Public Employment, and Retirement Committee. AB 1627 (Avila Farias) prohibits a person employed by ICE between September 1, 2025 and January 20, 2029 or by the Alabama or Georgia Departments of Corrections between January 1, 2020 and January 1, 2026 from employment as a California peace officer or as a specified school employee. AB 1627 was scheduled for a hearing in Assembly Public Safety Committee on April 14. Finally, AB 1896 (Mark Gonzalez, Rivas) disqualifies anyone who has engaged in immigration enforcement activity between January 20, 2025 and January 20, 2029 from being employed as a state, county, or local public agency employee, including as a peace officer. AB 1896 was heard on April 8 in Assembly Public Employment and Retirement Committee, where it

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[31] U.S. Const., art. VI, Cl 2.
[32] *United States v. California* (9th Cir. 2019) 921 F.3d 865, 879.
[33] *N.D. v. United States* (1990) 495 U.S. 423, 435; *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832, 839
[34] *United States v. Washington,* (2022) 596 U.S. 832, 838
[35] *Boeing*, *supra*, 768 F.3d at p. 842, quoting *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991.
[36] See *United States ex rel. Drury v. Lewis*, 200 U.S. 1, 7-8 (1906); Johnson v. Maryland, 254 U.S. 51, 56 (1920).
[37] *Geo Grp., Inc. v. Newsom* (2022) 50 F.4th 745, 755.
[38] *U.S. v. California, supra*, at fn. 31; *United States v. City of Arcata* (9th Cir. 2010) 629 F.3d 986, 991
[39] *United States of America v. California* (2026) Case 2:25-cv-10999-CAS-AJR, quoting *Boeing Co. v. Movassaghi* (9th Cir. 2014) 768 F.3d 832

received a vote of 5-1, and at the time this analysis was finalized, was awaiting a hearing in Assembly Public Safety Committee.

6. Argument in Support

According to the California Public Defenders Association:

> Many California public defender offices have immigration attorneys and experts, line deputy public defenders, and investigators who consult frequently with immigration attorneys and organizations as part of our holistic defense of our clients. In these capacities, we have frequently witnessed the pervasive abuse, disregard for the rule of law, and systemic dehumanization that have characterized the practices of ICE and Border Patrol in recent years. These agencies have operated with impunity—violating due process, engaging in racial profiling, and weaponizing fear against some of our state's most vulnerable residents. Communities across California continue to bear the scars of these unconstitutional tactics.
>
> SB 938 is not punitive; it is protective. It recognizes that individuals who participated in or enabled unlawful enforcement and custodial practices—where cruelty and racial discrimination were not only tolerated but incentivized—should not occupy roles of public trust in California. Peace officers wield extraordinary authority and influence. Ensuring that those who hold such positions demonstrate integrity, respect for human rights, and fidelity to constitutional principles is a matter of statewide concern and moral clarity.
>
> This legislation aligns with California's longstanding commitment to equity, accountability, and the protection of civil rights. By demanding higher ethical standards from those entrusted with public authority, SB 938 affirms our collective duty to ensure that public power is never again used to terrorize or marginalize our communities.

7. Argument in Opposition

According to the California Police Chiefs Association:

> Beginning in 2027, SB 938 would disqualify any officer who has "assisted" in immigration enforcement from certain roles or opportunities. This provision is deeply problematic due to the broad and ambiguous nature of the term "assist," which has been interpreted by courts to extend well beyond direct participation in immigration enforcement activities.
>
> Federal case law makes clear that "assistance" is not limited to active enforcement actions such as detentions or arrests. In *City of Chicago v. Sessions*, 888 F.3d 272 (7th Cir. 2018), the court treated assistance as including the sharing of information and coordination with federal authorities. Similarly, in *Malley v. Briggs*, 475 U.S. 335 (1986), the U.S. Supreme Court recognized that providing information that materially contributes to another agency's actions constitutes participation—in other words, assistance.

Taken together, these decisions demonstrate that "assist" encompasses a wide range of routine and lawful law enforcement activities, including information sharing, coordination with federal agencies, participation in joint task forces, grant-funded collaborations, reimbursement arrangements, and other forms of interagency cooperation. Under SB 938, these commonplace activities could trigger disqualification, even where the underlying conduct is entirely appropriate and focused on serious criminal activity.

This creates an untenable situation for law enforcement officers. An officer who, even unknowingly, shares information with a federal agency that is later used in an immigration enforcement action could be deemed to have "assisted" and therefore face disqualification. This risk is not hypothetical—it is inherent in the bill's broad language and the legal interpretation of "assistance." As a result, officers will be forced to second-guess routine information sharing and interagency communication, even in cases involving violent felonies or serious public safety threats.

-- END --