

UNFINISHED BUSINESS

Bill No: SB 938
Author: Menjivar (D), et al.
Amended: 8/6/26
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

SENATE FLOOR: 30-9, 5/27/26
AYES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener
NOES: Alvarado-Gil, Choi, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares
NO VOTE RECORDED: Dahle

SUBJECT: Peace officers: qualifications

SOURCE: Author

DIGEST: This bill provides that service as a sworn federal law enforcement officer whose primary duties consisted of any one or any combination of immigration inspection, border enforcement, or apprehension, detention, or removal of noncitizens under the federal immigration laws, and the training for that service, does not, standing alone, constitute qualifying training, experience, and education demonstrating sufficient law enforcement knowledge, skill, and proficiency for purposes of determining eligibility for a Regular Basic Course Waiver.

Assembly Amendments delete the prior version of the bill and instead include the limitation above.

ANALYSIS:

Existing law:

- 1) Requires every person described as a peace officer to satisfactorily complete an introductory training course established by the Commission on Peace Officer Standards and Training (POST). (Pen. Code, § 832, subd. (a).)
- 2) Requires POST to adopt rules establishing minimum standards relating to the recruitment, training, and fitness of state and local law peace officers. (Pen. Code, §§ 13510, 13510.5.)
- 3) Requires POST to establish a certification program for certain classes of peace officers. (Pen. Code, § 13510.1, subd. (a).)
- 4) Establishes basic, intermediate, advanced, supervisory, management, and executive certificates for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by certain peace officers. (Pen. Code, § 13510.1, subd. (b).)
- 5) Requires certificates to be awarded based on training, education, experience, and other prerequisites, as determined by POST. (Pen. Code, § 13510.1, subd. (c)(1).)
- 6) Authorizes persons determined by POST to be eligible peace officers to apply for the certificates, provided they are employed by an agency that participates in the POST program. (Pen. Code, § 13510.1, subd. (d).)
- 7) States that notwithstanding any other law, POST shall have the authority to suspend, revoke, or cancel any certification, as specified, and this authority extends to any certificate or proof of eligibility issued by POST, as specified. (Pen. Code, § 13510.1, subd. (f).)
- 8) Requires an agency that employs certain classes of peace officers to employ as a peace officer only individuals with current, valid certification, except an agency may employ a person for up to 24 months, pending certification by POST, if the person has received proof of eligibility and has not previously been certified, denied certification, or had their certification revoked. (Pen. Code, § 13510.1, subd. (g)(1).)

- 9) Authorizes POST to issue a basic certificate or proof of eligibility to specified peace officers, who, on January 1, 2022, are eligible for a basic certificate or proof of eligibility but have not applied for a certification. (Pen. Code, § 13510.1, subd. (h)(1).)
- 10) Requires specified peace officers who do not possess, and are not eligible for, a basic certificate to apply to POST for proof of eligibility. (Pen. Code, § 13510.1, subd. (h)(2).)
- 11) Disqualifies specified persons from being employed as a peace officer, including any person convicted of a felony, any person who has been issued a peace officer certification and has had that certification revoked by POST, and specified federal or out-of-state law enforcement officers who have committed serious misconduct. (Gov. Code, § 1029, subd. (a)(1)-(11).)
- 12) Permits individuals with qualifying federal or out-of-state law enforcement experience to receive waivers from certain peace officer training requirements, as follows:
 - a) Establishes the Basic Course Waiver (BCW) which provides an exemption from the Regular Basic Course or Specialized Investigator Basic Course training requirements. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)
 - b) Permits a BCW to be granted to individuals with qualifying out-of-state or federal law enforcement experience, whose law enforcement training, experience, and education are deemed by POST to demonstrate sufficient law enforcement knowledge, skill, and proficiency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)
 - c) Makes acceptance of the basic course waiver instead of successful completion of the regular basic course or specialized investigator basic course at the discretion of the employing agency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)
 - d) States that the basic course waiver does not determine an individual's employability nor is it a means of requalifying training, and that individuals with prior California law enforcement experience are not eligible for the basic course waiver and must complete requalification, as specified. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)

- e) Requires, to be eligible for a basic course waiver, an individual to meet the following training, education, and experience requirements:
 - i) Successful completion of a 400-hour minimum basic general law enforcement training course certified or approved by POST or a similar standards agency of another state, or a federal agency general law enforcement basic course.
 - ii) At least 664 hours of general law enforcement training, as specified.
 - iii) Legislatively mandated training included in the POST-certified regular basic course.
 - iv) At least two years of continuous full-time out-of-state experience performing general law enforcement duties with one agency, and requires the experience to have been acquired after the completion of basic training. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(a).)
- f) Establishes specified training, education, and experience requirements to be eligible for the specialized investigator's basic course waiver. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(b).)
- g) Establishes a four-step process for determining a basic course waiver: 1) application/self assessment, documentation, and fee requirements; 2) POST training evaluation; 3) basic course waiver assessment; and 4) waiver issuance, as specified. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).)

This bill:

- 1) Provides that, notwithstanding any other law, service as a sworn federal law enforcement officer whose primary duties consisted of any one or any combination of immigration inspection, border enforcement, or apprehension, detention, or removal of noncitizens under the federal immigration laws, and the training required to engage in that service, shall not, standing alone, constitute qualifying training, experience, and education demonstrating sufficient law enforcement knowledge, skill, and proficiency for purposes of determining eligibility for a Regular Basic Course Waiver, including any specialized training waiver, as specified.
- 2) Includes several findings and declarations.

Comments

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. The federal government has modified and accelerated its training to a 6-week program to meet its aggressive hiring efforts. As a result we have seen various reports documenting patterns of misconduct and harmful enforcement practices associated with Immigration and Customs Enforcement operations across California and nationwide.”

In an effort to address this issue, the version of this measure that passed out of the Senate would have disqualified a person from being a peace officer if they were previously employed as a sworn officer by a federal agency engaged in immigration enforcement and personally assisted with immigration enforcement, after January 20, 2025. Those provisions were deleted in Assembly amendments and the bill now reflects a different approach to ensuring that federal immigration officers seeking employment as California peace officers meet certain basic qualifications.

By way of background, To become a peace officer, a person must meet certain minimum standards: 1) they are legally authorized to work in the U.S. under federal law; 2) are at least 18 years of age; 3) are fingerprinted for purposes of searching local, state, and national fingerprint files to disclose a criminal record; 4) are of good moral character, as determined by a thorough background investigation; 5) are a high school graduate or other specified educational achievements; and 6) are free from any physical, emotional, or mental condition, including bias against race, ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of peace officer powers. (Gov. Code, § 1031, subds. (a)-(f).)

Additionally, peace officers are required to satisfactorily complete an introductory training course established by POST. (Pen. Code, § 832.) The POST-certified Regular Basic Course is the training standard that governs police officers, deputy sheriffs, and school district police officers, among others. It includes a minimum of 680 hours of POST-training, broken down into 43 Learning Domains. This includes a variety of written, skill, exercise, and scenario-based training and testing. POST additionally offers a specialized investigator’s basic course, an entry-level training requirement for certain California investigators, which requires

a minimum of 591 hours of training, and includes investigator-specific training such as investigative case management and surveillance.

Under California law, training waivers may be granted to individuals with qualifying out-of-state or federal law enforcement experience, whose law enforcement training, experience, and education are deemed by POST to demonstrate sufficient law enforcement knowledge, skill, and proficiency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).) The rules governing such waivers are largely established by POST Regulations, rather than statute. There are two types of basic course waivers: the regular basic course waiver and the specialized investigators' basic course waiver. Waiver applicants must complete an application process to receive such a waiver. (Ibid.) Employing law enforcement agencies have discretion over whether to accept a waiver. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C).)

Securing a basic course waiver requires a showing of certain training and experience. Eligibility for the basic course waiver requires that the applicant satisfy the following: 1) completion of a 400-hour minimum basic general law enforcement training course approved by POST or a similar standards agency of another state, or a federal agency general law enforcement basic course; 2) have at least 664 hours of general law enforcement training; 3) complete the legislatively mandated training included in the POST-certified regular basic course; and 4) have at least two years of continuous full-time out-of-state experience performing general law enforcement duties with one agency. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1.)(a).)

Further, there cannot be more than a six-year break from the applicant's last peace officer employment before the application for the waiver, and the applicant must attest that they are leaving their previous law enforcement employer in good standing. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).) The applicant must also review grounds for disqualification under California law and verify that they are unaware of any reason why they would be denied future certification as a peace officer. (Ibid.) Once an applicant has applied, POST conducts a training evaluation, and once the above components are completed, the waiver applicant is then required to attend a 161-hour Requalification course in person, unless they meet specified test-only criteria. (Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(2).) Once the waiver is issued, it is valid for three years.

This provides that service as a sworn federal law enforcement officer whose primary duties consisted of any one or any combination of immigration inspection, border enforcement, or apprehension, detention, or removal of noncitizens under

the federal immigration laws, and the training required to engage in that service, shall not, standing alone, constitute qualifying training, experience, and education demonstrating sufficient law enforcement knowledge, skill, and proficiency for purposes of determining eligibility for a Regular Basic Course Waiver, including any specialized training waiver.

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

According to the Assembly Appropriations Committee:

No significant fiscal effect on POST. POST reports that its regulations contain no categorical statement that ICE officers do not qualify for a Regular Basic Course waiver; rather, ineligibility results from the waiver evaluation itself. According to POST, ICE basic training is usually specialized and not commensurate with California's Regular Basic Course, and ICE officers' daily duties do not match "general law enforcement" as defined in POST Regulation 1001 — both factors POST considers in the basic course waiver process. Waiver applications from individuals whose only law enforcement background is ICE service therefore generally would not qualify under existing evaluation standards.

SUPPORT: (Verified 8/26/26)

California Public Defenders Association
Central American Resource Center of California
Mexican-American Legal Defense and Ed Fund

OPPOSITION: (Verified 8/26/26)

California Association of Highway Patrolmen
California State Sheriffs' Association

Prepared by: Alex Barnett / PUB. S. /

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