
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 546 **Hearing Date:** June 23, 2015
Author: Gonzalez
Version: June 15, 2015
Urgency: No **Fiscal:** Yes
Consultant: JRD

Subject: *Peace Officers: Basic Training Requirements*

HISTORY

Source: Chief Probation Officers of California

Prior Legislation: AB 1860 (V. Manual Perez) — Chapter 87, Statutes of 2014

Support: Contra Costa County Board of Supervisors; Los Angeles County Probation Officers; Riverside Sheriffs Association; California Probation, Parole and Correctional Association

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill is to prohibit the Commission on Peace Officer Standards and Training (POST), when it is evaluating a certification request from a probation department for the training course prescribed in Penal Code section 832, to: (1) consider the need and justification for the training course; or (2) require that there be an identifiable and unmet need for the training course as a condition of certifying the training course.

Existing law requires every peace officer, as specified, except those whose employing agency prohibits the use of firearms, to satisfactorily complete an introductory POST-prescribed introductory training course and that satisfactory completion of the course is to be demonstrated by passage of an appropriate POST-developed or approved examination. (Penal Code § 832(a).)

Existing law requires every peace officer, as specified, to satisfactorily complete the course described above prior to exercising the powers of a peace officer, and states that peace officers who have not satisfactorily completed the introductory training course do not have peace officer powers until they satisfactorily complete the course. (Penal Code §§ 832 (b) and (c).)

Existing law requires any person completing the introductory training course described above who does not become employed as a peace officer within 3 years from the date of passing the examination, or who has a 3 year or longer break in service as a peace officer, to pass the examination prior to exercising peace officer powers, except for any person who meets any of the following requirements:

- Is returning to a management position that is at the second level of supervision or higher;
- Has successfully requalified for a basic course through the POST;
- Has maintained proficiency through teaching the introductory training course described above;
- During the break in California service, was continuously employed as a peace officer in another state or at the federal level; or,
- Has previously satisfactorily completed the introductory training course and passed the appropriate examination; has been appointed as a peace officer, as specified; and has been continuously employed as a custodial officer, as defined, by the agency making the peace officer appointment since completing the introductory training course. (Penal Code § 832(e).)

Existing law authorizes POST, notwithstanding any other law, to charge appropriate fees, not exceeding actual costs, for the examination required to demonstrate satisfactory completion of the introductory training course to each applicant who is not sponsored by a local or other law enforcement agency; is not a peace officer employed by, or under consideration for employment by, a state or local agency, department, or district; or is not a custodial officer, as defined. (Penal Code § 832(g).)

Existing law states that a probation department that is a certified provider of the training course is not required to offer the course to the general public. (Penal Code § 832(h).)

Under existing regulation POST administers the Course Certification Program to provide needed and quality training to law enforcement personnel. References to a course being “POST-certified” means that the POST has approved presentation of the course in accordance with POST regulations. (11 CCR 1051 (2015).)

Existing regulation states each instructor-led training (Web-based, classroom, or other) course certification request shall be evaluated in accordance with the following factors:

- Need and Justification for Course
- Course Content
- Hours of Instruction
- Qualification of Instructors, Coordinators, and/or Academy Staff (Reference Regulations 1070 and 1071 for minimum training standards)
- Potential Clientele and Volume of Trainees
- Physical Facilities Appropriate for the Training
- Methods of Course Presentation
- Availability of Staff to Administer the Course
- Course Evaluation Processes

- Cost of Course
- Instructor/Trainee Ratios
- Provisions for Student Safety

(11 CCR 1052 (2015).)

This bill prohibits POST, when it is evaluating a certification request from a probation department for the training course prescribed in Penal Code section 832, to: (1) consider the need and justification for the training course; or (2) require that there be an identifiable and unmet need for the training course as a condition of certifying the training course.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state’s ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State’s 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.” (Defendants’ February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;

- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Legislation

According to the author:

According to the Chief Probation Officers of California, probation departments across the state are facing challenges meeting the *PC 832 firearms and arrest course* requirement for their officers to become fully sworn. Probation departments do all of their mandated training to become an officer through the *Board of State and Community Corrections* (BSCC), except for the *PC 832 course*—which is required to be certified by the *Commission on Peace Officer Standards and Training* (POST).

A recent informal survey of 22 counties showed that half of them have experienced difficulty in gaining access to *PC 832* training within the last year, with seven of those counties having officers on formal waitlists for courses. Locally, in some jurisdictions the only choice is via the local junior college, which may be structured differently and require a semester long commitment usually held in the evening for four hours a week. In certain regions, particularly smaller counties, there are no local courses offered which then require departments to send officers out of county to the nearest training facility.

Despite the abovementioned training needs, additional courses have not been considered for certification by POST. To ensure we are meeting local and regional demands, AB 546 would allow probation departments that have met all other training and testing specifications, and that are willing to pay for putting on the course, the ability to be certified by POST even if their internal view of “needs” is not met. Operationally, this is what has been happening. POST doesn't see a need for more courses yet probation is asking to be certified and willing to do what is necessary to start these trainings. Allowing probation departments to get courses certified will give County probation departments across the state the ability to decide what best fits their training needs.

AB 546 will not impact other agencies such as police and sheriffs with their trainings or course offerings.

2. Effect of Legislation

This legislation would allow a probation department to have an introductory peace officer course certified by POST, without having to show a need or justification for the course. The Chief Probation Officers of California (CPOC), who are the sponsors of this legislation state:

Probation departments across the state are facing significant access issues to attending this particular PC 832 training. This is due to fewer courses being offered over the last few years, attendance slots can be difficult to identify for non-POST agencies and therefore not available when probation seeks registration, and travel challenges in regions where fewer courses are offered.

A recent informal survey of 22 counties showed that half of the counties have experienced difficulty in gaining access to PC 832 training within the last year, with seven of those counties having officers on formal waitlists for courses. 17 of the 22 respondents have to send officers out of county at a cost of \$500-\$1,700 per officer due to costs associated with mileage, meals, lodging and tuition. The cost will vary by the distance of travel required and length of time. This is causing new hires to delay the start of their service, in some cases for several months, and is forcing numerous departments to send personnel out of county which can be time-consuming and expensive.

CPOC has been in conversations with POST toward this end and while we appreciate the efforts of the current POST administration to address these concerns, it is important that we address this legislatively to mitigate this in future years and find lasting resolution.

Despite the abovementioned training needs, additional courses have not been certified at this time. This is due in part to current POST regulatory requirements that state that “only those courses for which there is an identifiable and unmet need shall be certified.” POST determines needs based off of the number of courses offered, available participant slots, and vacancies, but it does not take into account the unique issues that non-POST agencies like probation face. Therefore, probation departments have a difficult time fitting the POST regulatory definition of the needs assessment for a variety of reasons. As such, we are seeking to remove this requirement for purposes of probation course certification without removing the other training and course requirements so that probation departments can offer the same level of training more efficiently.

According to information provided by POST, “prior to Riverside County, Santa Clara County Probation Department was the only probation department that sought course certification for the PC 832 course. Santa Clara was able to show a demonstrated need and certification was granted in July 2006. The last two classes Santa Clara held were in September 2014 and April 2015 with 10 and 16 attendees respectively. In 2013/2014 Riverside County requested certification . . . but did not show a demonstrated need. . .”

In determining an identifiable and unmet training need, POST considers:

- Is there a demonstrated ongoing unmet need expressed by a survey of agencies, Training Needs Assessment, and a commitment of trainees/students?
- Are there existing courses available locally or that can be imported into the area to meet this need?
- Will this course adversely impact another similar course locally or statewide (student distribution and/or fiscal considerations)?
- Is the course an expressed priority by legislation, commission regulation or policy?

- Is the course content an appropriate training subject for POST certification?
- Is there required POST standardized curriculum?
- Is there a demonstrated ability of the presenter to deliver the course?
- Are there other factors and/or circumstances to be taken into consideration?

With regard to Riverside, POST states, “[t]hey were denied certification until recently when Chief Hake met with POST staff and demonstrated the need for the course. Riverside has since been approved for certification.” POST is not aware of any additional probation departments that have applied for certification and have been denied.

SHOULD POST BE PROHIBITED FROM REQUIRING A PROBATION DEPARTMENT TO DEMONSTRATE A NEED AND JUSTIFICATION IN ORDER TO HAVE A BASIC TRAINING COURSE CERTIFIED?

-- END --