
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: SB 271 **Hearing Date:** March 16, 2021
Author: Wiener
Version: January 28, 2021
Urgency: No **Fiscal:** No
Consultant: GC

Subject: *County sheriffs: eligibility requirements*

HISTORY

Source: California Immigrant Policy Center
NextGen California
Secure Justice
Wellstone Democratic Renewal Club
California Faculty Association

Prior Legislation: SB 1356 (Campbell) Ch. 57, Stats. of 1988

Support: American Civil Liberties Union – California; Asian Americans Advancing Justice – California; Bend the Arc – Jewish Action; California Public Defenders Association; Change Begins With Me – Indivisible Group; Coalition for Humane Immigrant Rights; Coalition for Police Accountability; Congregation Beth El; Courage California; Drug Policy Alliance; East Area Progressive Democrats; East Bay for Everyone; Ella Baker Center for Human Rights; Ensuring Opportunity Campaign to End Poverty in Contra Costa County; Faith in Action East Bay; Family Violence Law Center; Friends Committee on Legislation of California; Friends of Adeline; ICE Out of Marin; Indivisible Elmwood; Indivisible Sausalito; Indivisible Yolo; Initiate Justice; Interfaith Movement for Human Integrity; LA Voice; Lift Up Contra Costa; Livermore Indivisible; Prosecutors Alliance of California; Public Health Advocates; Rossmoor Lesbians for Social Justice; San Francisco District Attorney’s Office; San Francisco Public Defender; Showing Up for Racial Justice (SURJ) Bay Area; Smart Justice California; Sonoma County Commission on Human Rights; SURJ Contra Costa County; SURJ Marin; Tri-Valley Democratic Club; Women’s March Contra Costa; Oakland Privacy (support if amended)

Opposition: California Narcotic Officers' Association; California Peace Officers Association; California Police Chiefs Association; California State Sheriffs' Association; California Statewide Law Enforcement Association; Los Angeles County Sheriff's Department; Peace Officers Research Association of California (PORAC); Riverside Sheriffs' Association

PURPOSE

The purpose of this bill is to repeal provisions of law put in place in 1988 that require elected sheriffs have specified peace officer certification.

Existing law provides that no person is eligible to become a candidate for the office of sheriff in any county unless, at the time of the final filing date for election, he or she meets one of the following criteria: (Cal. Gov. Code § 24004.3, subd. (a).)

- An active or inactive advanced certificate issued by the Commission on Peace Officer Standards and Training (POST).
- One year of full-time, salaried law enforcement experience at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a master's degree from an accredited college or university.
- Two years of full-time, salaried law enforcement experience at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a bachelor's degree from an accredited college or university.
- Three years of full-time, salaried law enforcement experience at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses an associate in arts or associate in science degree, or the equivalent, from an accredited college.
- Four years of full-time, salaried law enforcement experience at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a high school diploma or the equivalent.

Existing law provided that all persons holding the office of sheriff on January 1, 1989 were deemed to have met all qualifications required for candidates seeking election or appointment to the office of sheriff. (Cal. Gov. Code § 24004.3, subd. (b).)

This bill repeals the provisions of law requiring certification by POST or prior salaried experience as a law enforcement officer.

COMMENTS

1. Need for This Bill

Protests against police brutality have called for elected officials to reimagine public safety by, among other things, shifting some duties away from armed officers to unarmed civilians and social workers. The criteria imposed by the state in Government Code §24004.3 has significantly narrowed the pool of candidates for office of the Sheriff and makes it harder to reimagine our criminal justice system. These eligibility requirements have led to elections without much competitiveness or differentiation between candidates. Today, Sheriffs are essentially managers of a large bureaucracy. In large counties, they manage thousands of employees, the vast majority of whom are unarmed, non-sworn civilians. The three primary duties of the Sheriff are to police unincorporated areas, operate the county jail, and attend to and execute orders of the courts. In 41 counties, the Sheriff is also the Coroner whose authority includes investigating the cause of in-custody deaths. Sheriffs can be the most powerful elected official in a county and yet only a small pool of people may seek the position.

Many current Sheriffs lack mental health or de-escalation training. As recent COVID-19 outbreaks in our jails demonstrates, the skills Sheriffs need to protect public safety include strong management, leadership, and the ability to move quickly and make difficult decisions, rather than the ability to fire a weapon.

Lawsuits throughout the state are raising awareness of the dire inadequacy of health care and mental health services provided in our county jails. Moreover, the ongoing cooperation between many Sheriffs and the U.S. Immigration and Customs Enforcement (ICE) further demonstrates that many elected Sheriffs do not share the values of their constituents. We have also seen Sheriffs refusing to enforce health orders while California's death and hospitalization numbers rose.

SB 271 simply reverts California law to what it was from the State's founding until 1989 and thus allows voters to choose from a broader pool of candidates with more diverse backgrounds and skill sets and greater accountability. This bill will not prevent candidates with law enforcement experience from seeking or occupying the office. Instead, SB 271 will allow for a broader pool of candidates with more diverse skill sets, lead to greater gender and ethnic diversity in candidates, and provide for better management of Sheriff departments.

2. Background on Qualifications for County Sheriffs in California

Historically in California Sheriffs any person could seek the office of County Sheriff regardless of their employment background or certification of peace officer status. In 1978, San Francisco Mayor George Moscone appointed Eugene Brown Sheriff of San Francisco County. The following year, Sheriff Brown stood for election. Michael Hennessey, who previously served as legal counsel to a prior sheriff ran as an opposition candidate. Michael Hennessey was elected San Francisco County Sheriff and took office in January of 1980. Following his successful campaign for sheriff there were calls to create qualifications to seek the office of Sheriff in California. SB 1356 (Campbell) was passed in 1988 and created the provisions of law that are being deleted by this bill. These provisions specified that any person seeking the office of county sheriff in California must be certified as a peace officer by POST.

Sheriff Mike Hennessey went on to serve San Francisco for 8 terms in office. He was San Francisco County Sheriff from 1980-2012. He chose to not run for a 9th term in office. He was the longest serving Sheriff in the history of San Francisco. He became known as a pioneer in prisoner education programs in California. He was also known for rehabilitation programs, hiring of minorities, and improving professionalism in the San Francisco Sheriff's Department.

Opponents to this legislation argue that this bill seeks to further politicize the office of county sheriff. The political climate is currently electrified in general, and by expanding the pool of candidates this bill would permit an entirely new pool of candidates who could seek the position of county sheriff. Additionally, opponents argue that there is a sound policy reason to require that the head of a law enforcement department undergo the same training and certification of the peace officer that they are tasked with managing.

The bill's supporters characterize this bill as part of a greater movement to re-imagine public safety in California. They point to a lack of diversity in the office holders of county sheriff (49 white men, 3 latino men, 2 Japanese men, and 4 white women). Additionally, they argue that sheriffs manage large organizations of people that are primarily not peace officers. For instance there are 41 county sheriffs that are also the coroners of their county. They argue that this bill will give greater freedom to Californians to choose who they want to manage their sheriff departments on the county level.

3. Argument in Support

In 1988, state law was amended to require people seeking election for the office of Sheriff to be POST certified. This change was in response to prisoners' rights attorney Michael Hennessey's successful campaign for Sheriff of San Francisco. This eligibility requirement has restricted who can be sheriff to a very narrow pool and has led to many uncontested elections against incumbents or a lack of personal and professional experience among candidates, as well as a lack of diversity.

There is a legitimate interest in opening the pool of applicants for election as sheriff because of the critical role sheriffs play in the lives of millions of Californians, and to reflect the call from people across the state asking for a reimagining of public safety. Sheriffs are essentially managers of a large bureaucracy, not peace officers. In large counties, they manage thousands of employees, the vast majority of whom are unarmed, non-sworn civilians. The three primary duties of the sheriff are to police unincorporated areas, operate the county jail, and attend to and execute orders of the courts. In 41 counties, the sheriff is also the coroner whose authority includes investigating the cause of in-custody deaths.

Artificially limiting the office of Sheriff to certified peace officers also constrains public debate on the role of sheriffs, as well as freedom of choice for California voters, and tends to perpetuate tough-on-crime policies that are not reflective of public opinion, instead of investment in communities and the end of mass incarceration. These policies have been further exacerbated during the COVID pandemic placing and keeping millions in danger rather than seeking safer alternatives outside of confinement.

SB 271 will not prevent candidates with law enforcement experience from seeking or occupying the office. Instead, this bill will allow for a broader pool of candidates with more diverse skill sets, lead to greater gender and ethnic diversity in candidates, and provide for better management of sheriffs' departments.

4. Argument in Opposition

According to the California Statewide Law Enforcement Association:

While we certainly understand and appreciate the author's intent to ensure more community engagement in the law enforcement profession, we fundamentally disagree with the premise of this bill. County Sheriffs are elected by the county residents for which they serve and should the community disapprove of the job the Sheriff is doing can choose not to reelect them the next election cycle. Given the environment we find ourselves in, we do not believe it is prudent, nor is it in the interest of public safety, to overly or overtly politicize this office. To that end, law enforcement officers employed by a County Sheriffs' Department should be managed by someone who has gone through the Peace Officer Standards and Training, from basic academy up to advanced certifications that is developed by policies enacted by the Legislature and the Commission on POST, appointed by the Governor.

Should the author wish to pursue alternatives, we believe a more holistic approach to ensure community engagement within the police profession include providing resources to POST and departments to recruit and train officers from the communities in which peace officers serve. Law enforcement is committed to this effort by working collaboratively with community organizations to ensure communities are represented within the workforce.

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