
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 618 **Hearing Date:** April 23, 2019
Author: Stone
Version: February 22, 2019
Urgency: No **Fiscal:** Yes
Consultant: JK

Subject: *Peace Officers: Perjury*

HISTORY

Source: Author

Prior Legislation: SB 2681 (Boatwright), Ch. 950, Stats. 1990

Support: California Civil Liberties Advocacy

Opposition: None known

PURPOSE

The purpose of this bill is to increase the penalty for knowing and intentionally making a false statement by a peace officer from an alternate misdemeanor/felony to a felony punishable by imprisonment for 2, 3, or 4 years.

Existing law states that the knowing and intentional making of false statements by a peace officer is a crime punishable by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for 1, 2, or 3 years. (Pen. Code, § 118.1 (a).)

Existing law states that this crime does not apply to statements made by other persons in the peace officer's report. (Pen. Code, § 118.1 (b).)

Existing law states that every person who, having taken an oath that they will testify before any competent tribunal, officer, or person, in any of the cases in which the oath may by law of the State of California be administered, willfully and contrary to the oath, states as true any material matter which they know to be false is guilty of perjury. (Pen. Code, § 118 (a).)

Existing law states that perjury is punishable by imprisonment in a county jail for two, three, or four years. (Pen. Code, § 126.)

This bill states that every peace officer who files any report with their employing agency regarding the commission of any crime or investigation of any crime and knowingly and intentionally makes any statement regarding any material matter in the report which the officer knows to be false is guilty of filing a false report, a felony, punishable by imprisonment in a county jail for two, three, or four years.

COMMENTS

1. Need for This Bill

According to the author:

Police officers are among our most trusted public servants, and the integrity of their reports used in the prosecution of crimes needs to be entirely above and beyond reproach. As such, law enforcement officials who knowingly and maliciously file false reports in order to settle personal vendettas against the accused should be held to a higher standard, which SB 618 seeks to accomplish.

A recent report by the San Francisco Chronicle shows “four cases involving a ‘sustained honesty complaint’ by an officer with incidents ranging from 1996 to 2009. The officers were found to have withheld evidence, committed forgery and falsified reports, resulting in two terminations, one resignation and one unknown discipline recommendation.”

While it is currently against the law for a civilian to commit perjury when falsifying a report to police, recent events have put additional scrutiny on law enforcement officials when it comes to decision-making. SB 618 seeks to provide the law enforcement community with the tools necessary to ensure the public that police reports are accurate, complete and beyond reproach by increasing the penalty for officers who knowingly and intentionally file a falsified report in line with existing law governing civilian filings.

SB 618 would make it a felony for an officer to knowingly and intentionally falsify a police report or commit perjury. Specifically, it would raise the penalty from imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for 1, 2, or 3 years, to imprisonment for 2, 3, or 4 years.

2. Perjury

Under existing law, perjury is a felony punishable by imprisonment in a county jail for 2, 3, or 4 years. Perjury includes but is not limited to falsely testifying in court, being deposed, signing an affidavit, or signing a declaration. Depending on the effect of the perjury and the judge’s discretion, perjury is punishable for as little as no time to as high as life imprisonment.

Perjury can also be committed in various ways. The prosecutor must establish that the offender has committed one or more of the following:

- **Convinced someone else to testify falsely**
- The statement of the offender was essential
- The information was willfully false
- The offender knew another perjurer’s statement was false

However, if the offender is able to prove that they unknowingly provided false information or that there is insufficient evidence that they made a false statement the offender will be relieved of any charges.

3. Recent Findings of Falsified Investigations

In 2018, the passage of SB 1421 (Skinner) allowed for specified police records to be made available to the public. On January 31, 2019, the San Francisco Chronicle released an article analyzing recent records released by the Fairfield police department.¹ Within these records the San Francisco Chronicle found incidences of falsified reports and withheld evidence. According to the article, officers were either terminated or resigned. However, any criminal consequences are unknown.

When peace officers are being investigated, they have many protections through the Peace Officer Bill of Rights (POBOR). And under existing law, if a peace officer were to commit an act of perjury in a report, they would be given more leniency than another California citizen. Together these standards provide more protections to peace officers committing perjury than another California citizen committing perjury; although, peace officers are handling significant issues which can be life changing and impact the liberty of Californians.

4. Increase Punishment for False Reports to Equalize Punishment with Perjury

This bill will increase the penalty of falsifying a report for a peace officer to the same standard as another Californian who commits perjury. Currently existing law would charge a peace officer with “imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for 1, 2, or 3 years”, which identifies perjury as a misdemeanor or felony depending on the sentence. This bill will make falsifying a report by a peace officer a felony.

-- END --

¹ <https://www.sfchronicle.com/crime/article/Multiple-Fairfield-police-officers-disciplined-13578919.php>