

AMENDED IN SENATE MARCH 10, 2022

AMENDED IN SENATE FEBRUARY 17, 2022

SENATE BILL

No. 960

Introduced by Senator Skinner

February 9, 2022

An act to amend ~~Section 1031~~ of Sections 2247 and 2960.2 of the Business and Professions Code, to amend Sections 1031, 1031.1, 1031.2, and 12811.3 of, and to repeal Section 1031.5 of, the Government Code, to amend Section 832.05 of the Penal Code, and to repeal Section 2267 of the Vehicle Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 960, as amended, Skinner. Public employment: peace officers: citizenship.

Existing law establishes the Commission on Peace Officer Standards and Training within the Department of Justice to perform various functions involving the training of peace officers. Existing law requires peace officers in this state to meet specified minimum standards, including, among other requirements, being at least 18 years of age, being of good moral character, as determined by a thorough background investigation, and being either a citizen of the United States or a permanent resident who is eligible for and has applied for citizenship, except as prescribed.

This bill would remove the provision that requires peace officers to either be a citizen of the United States or be a permanent resident who is eligible for and has applied for ~~citizenship~~. *citizenship, and would make conforming changes.*

Existing law establishes, within the Transportation Agency, the Department of the California Highway Patrol, under the control of the Commissioner of the California Highway Patrol.

Existing law, with certain exceptions, prohibits a person who is not a citizen of the United States from being appointed as a member of the California Highway Patrol.

This bill would remove that prohibition, and would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2247 of the Business and Professions
2 Code is amended to read:

3 2247. (a) A licensee shall meet the requirements set forth in
4 subdivision-(f) (e) of Section 1031 of the Government Code prior
5 to performing either of the following:

6 (1) An evaluation of a peace officer applicant’s emotional and
7 mental condition.

8 (2) An evaluation of a peace officer’s fitness for duty.

9 (b) This section shall become operative on January 1, 2005.

10 SEC. 2. Section 2960.2 of the Business and Professions Code
11 is amended to read:

12 2960.2. (a) A licensee shall meet the requirements set forth in
13 subdivision-(f) (e) of Section 1031 of the Government Code prior
14 to performing either of the following:

15 (1) An evaluation of a peace officer applicant’s emotional and
16 mental condition.

17 (2) An evaluation of a peace officer’s fitness for duty.

18 (b) This section shall become operative on January 1, 2005.

19 ~~SECTION 1.~~

20 SEC. 3. Section 1031 of the Government Code is amended to
21 read:

22 1031. Each class of public officers or employees declared by
23 law to be peace officers shall meet all of the following minimum
24 standards:

25 (a) Be 18 years of age or older.

26 (b) Be fingerprinted for purposes of search of local, state, and
27 national fingerprint files to disclose a criminal record.

1 (c) Be of good moral character, as determined by a thorough
2 background investigation.

3 (d) Be a high school graduate, pass the General Education
4 Development Test or other high school equivalency test approved
5 by the State Department of Education that indicates high school
6 graduation level, pass the California High School Proficiency
7 Examination, or have attained a two-year, four-year, or advanced
8 degree from an accredited college or university. The high school
9 shall be either a United States public school, an accredited United
10 States Department of Defense high school, or an accredited or
11 approved public or nonpublic high school. Any accreditation or
12 approval required by this subdivision shall be from a state or local
13 government educational agency using local or state government
14 approved accreditation, licensing, registration, or other approval
15 standards, a regional accrediting association, an accrediting
16 association recognized by the Secretary of the United States
17 Department of Education, an accrediting association holding full
18 membership in the National Council for Private School
19 Accreditation (NCPA), an organization holding full membership
20 in AdvancED, an organization holding full membership in the
21 Council for American Private Education (CAPE), or an accrediting
22 association recognized by the National Federation of Nonpublic
23 School State Accrediting Associations (NFSSAA).

24 (e) Be found to be free from any physical, emotional, or mental
25 condition that might adversely affect the exercise of the powers
26 of a peace officer.

27 (1) Physical condition shall be evaluated by a licensed physician
28 and surgeon.

29 (2) Emotional and mental condition shall be evaluated by either
30 of the following:

31 (A) A physician and surgeon who holds a valid California
32 license to practice medicine, has successfully completed a
33 postgraduate medical residency education program in psychiatry
34 accredited by the Accreditation Council for Graduate Medical
35 Education, and has at least the equivalent of five full-time years
36 of experience in the diagnosis and treatment of emotional and
37 mental disorders, including the equivalent of three full-time years
38 accrued after completion of the psychiatric residency program.

39 (B) A psychologist licensed by the California Board of
40 Psychology who has at least the equivalent of five full-time years

1 of experience in the diagnosis and treatment of emotional and
2 mental disorders, including the equivalent of three full-time years
3 accrued postdoctorate.

4 The physician and surgeon or psychologist shall also have met
5 any applicable education and training procedures set forth by the
6 California Commission on Peace Officer Standards and Training
7 designed for the conduct of preemployment psychological
8 screening of peace officers.

9 (f) This section shall not be construed to preclude the adoption
10 of additional or higher standards, including age.

11 *SEC. 4. Section 1031.1 of the Government Code is amended*
12 *to read:*

13 1031.1. (a) For purposes of performing a thorough background
14 investigation for applicants not currently employed as a peace
15 officer, as required by subdivision ~~(d)~~ (c) of Section 1031, or in
16 the case of an applicant for a position other than a sworn peace
17 officer within a law enforcement agency, an employer shall disclose
18 employment information relating to a current or former employee,
19 upon request of a law enforcement agency, if all of the following
20 conditions are met:

21 (1) The request is made in writing.

22 (2) The request is accompanied by a notarized authorization by
23 the applicant releasing the employer of liability.

24 (3) The request and the authorization are presented to the
25 employer by a sworn officer or other authorized representative of
26 the employing law enforcement agency.

27 (b) In the absence of fraud or malice, an employer shall not be
28 subject to civil liability for any relevant cause of action by virtue
29 of releasing employment information required pursuant to this
30 section. This section does not in any way or manner abrogate or
31 lessen the existing common law or statutory privileges and
32 immunities of an employer.

33 (c) For purposes of this section, “employment information”
34 includes written information in connection with job applications,
35 performance evaluations, attendance records, disciplinary actions,
36 eligibility for rehire, and other information relevant to the
37 performance of a peace officer or other law enforcement agency
38 applicant, except information prohibited from disclosure by any
39 other state or federal law or regulation.

1 (d) An employer's refusal to disclose information to a law
2 enforcement agency in accordance with this section shall constitute
3 grounds for a civil action for injunctive relief requiring disclosure
4 on the part of an employer.

5 (e) Employment information disclosed by an employer to an
6 initial requesting law enforcement agency shall be deemed
7 confidential. However, the initial requesting law enforcement
8 agency may disclose this information to another authorized law
9 enforcement agency that is also conducting a background
10 investigation into a peace officer or other law enforcement agency
11 applicant. If this information is disclosed to another law
12 enforcement agency, that agency shall utilize the information for
13 investigative leads only and the information shall be independently
14 verified by that agency in order to be used in determining the
15 suitability of a peace officer or other law enforcement agency
16 applicant.

17 (f) An employer may charge reasonable fees to cover actual
18 costs incurred in copying and furnishing documents to law
19 enforcement agencies as required by this section.

20 *SEC. 5. Section 1031.2 of the Government Code is amended*
21 *to read:*

22 1031.2. Consistent with the Americans with Disabilities Act
23 of 1990 (Public Law 101-336) and paragraph (3) of subdivision
24 (e) of Section 12940, the collection of nonmedical or
25 nonpsychological information of peace officers, in accordance
26 with a thorough background investigation, as required by
27 subdivision-~~(d)~~ (c) of Section 1031, may be deferred until after a
28 conditional offer of employment is issued if the employer can
29 demonstrate that the information could not reasonably have been
30 collected prior to the offer.

31 *SEC. 6. Section 1031.5 of the Government Code is repealed.*

32 ~~1031.5. (a) Any person employed by a governmental agency~~
33 ~~on September 13, 1982, as a peace officer or a peace officer trainee,~~
34 ~~or who, prior to September 13, 1982, had applied to fill a position~~
35 ~~as a peace officer, as defined in Chapter 4.5 (commencing with~~
36 ~~Section 830) of Title 3 of Part 2 of the Penal Code, is not subject~~
37 ~~to the requirement of subdivision (a) of Section 1031 prior to its~~
38 ~~amendment by Chapter 943 of the Statutes of 1982, provided that~~
39 ~~any person qualifying for this exemption shall, as soon as legally~~
40 ~~possible, apply for and meet all of the requirements for United~~

1 States citizenship specified in existing law, and shall be subject to
2 subdivisions (b) and (c):

3 ~~(b) Any permanent resident immigrant who is employed as a~~
4 ~~peace officer shall diligently cooperate with the United States~~
5 ~~Citizenship and Immigration Services in the processing of the~~
6 ~~officer's application for citizenship and shall be disqualified from~~
7 ~~holding that position if, three years after the filing of the application~~
8 ~~for employment, the person has not obtained citizenship due to~~
9 ~~the officer's failure to cooperate in the processing of the application~~
10 ~~for citizenship.~~

11 ~~(c) Any permanent resident immigrant who is employed as a~~
12 ~~peace officer shall be disqualified from holding that position if the~~
13 ~~officer's application for citizenship is denied.~~

14 ~~(d) For purposes of this section, "immigrant" means a person~~
15 ~~who is not a citizen or national of the United States.~~

16 *SEC. 7. Section 12811.3 of the Government Code, as amended*
17 *by Section 176 of Chapter 615 of the Statutes of 2021, is amended*
18 *to read:*

19 12811.3. (a) Notwithstanding any other provision of law and
20 subject to the provisions of subdivision (i), any employee of a
21 department, board, or commission under the jurisdiction of the
22 Department of Corrections and Rehabilitation, who is designated
23 as a peace officer described in Chapter 4.5 (commencing with
24 Section 830) of Title 3 of Part 2 of the Penal Code, may transfer
25 from the employee's current position to another department, board,
26 or commission under the jurisdiction of the Department of
27 Corrections and Rehabilitation.

28 (b) Any peace officer who desires to transfer to another
29 department, board, or commission pursuant to subdivision (a), and
30 who is prohibited from carrying a firearm pursuant to state or
31 federal law shall not transfer to a department, board, or commission
32 that requires the use of a firearm.

33 (c) Any peace officer who desires to transfer to another
34 department, board, or commission pursuant to subdivision (a) to
35 a position requiring the ability to carry a firearm, as determined
36 by the department, board, or commission, and who has not
37 completed the required training pursuant to Section 832 of the
38 Penal Code, shall successfully complete the required training before
39 appointment to a new peace officer position.

1 (d) (1) Any peace officer who desires to transfer shall not be
2 required to undergo a psychological screening pursuant to
3 subdivision ~~(f)~~ (e) of Section 1031 of this code or subdivision (a)
4 of Section 13601 of the Penal Code, unless the Secretary of the
5 Department of Corrections and Rehabilitation, or the secretary's
6 designee, makes a determination that a peace officer is required
7 to undergo all or a portion of a psychological screening as
8 described in subdivision ~~(f)~~ (e) of Section 1031 of this code or
9 subdivision (a) of Section 13601 of the Penal Code.

10 (2) The Secretary of the Department of Corrections and
11 Rehabilitation shall promulgate emergency regulations in order to
12 implement paragraph (1). Notwithstanding subdivision (b) of
13 Section 11346.1, no showing of an emergency shall be necessary
14 in order to adopt, amend, or repeal the emergency regulations
15 required by this paragraph.

16 (e) Any peace officer who has successfully completed a course
17 of training pursuant to Section 13602 of the Penal Code and who
18 transfers to another department, board, or commission pursuant to
19 subdivision (a) shall not be required to complete a new course of
20 training pursuant to Section 13602 of the Penal Code. However,
21 each department, board, or commission may prescribe additional
22 training to be provided to an employee who transfers pursuant to
23 subdivision (a) and shall provide that training within the first six
24 months of appointment to a new peace officer position.

25 (f) Any peace officer who desires to transfer to another
26 department, board, or commission pursuant to subdivision (a) shall
27 not be required to undergo a new background investigation
28 pursuant to Section 1029.1.

29 (g) Nothing in this section shall affect an employee's seniority
30 calculation as provided for under current law or any memorandum
31 of understanding between the state and any applicable bargaining
32 unit agreement in effect upon the effective date of this section.

33 (h) The provisions of the Unit 6 Memorandum of Understanding,
34 which expires July 2, 2006, as modified by the ratified addendum
35 dated June 30, 2004, relating to the release of copies of video
36 recorded incidents, shall be subject to the California Public Records
37 Act (Division 10 (commencing with Section 7920.000) of Title
38 1).

39 (i) This section shall become operative only when the Secretary
40 of the Department of Corrections and Rehabilitation certifies in

1 writing that it is necessary to prevent or minimize employment
 2 actions, including, but not limited to, layoffs, demotions, reductions
 3 in time base, or involuntary transfers of employees. In addition,
 4 the Secretary of the Department of Corrections and Rehabilitation
 5 shall have the sole authority to designate any or all departments,
 6 boards, or commissions eligible to have its peace officer employees
 7 transfer pursuant to subdivision (a) and any or all departments,
 8 boards, or commissions that shall accept peace officer employees
 9 under this section.

10 *SEC. 8. Section 832.05 of the Penal Code is amended to read:*

11 832.05. (a) Each state or local department or agency that
 12 employs peace officers shall utilize a person meeting the
 13 requirements set forth in subdivision ~~(f)~~ (e) of Section 1031 of the
 14 Government Code, applicable to emotional and mental
 15 examinations, for any emotional and mental evaluation done in
 16 the course of the department or agency’s screening of peace officer
 17 recruits or the evaluation of peace officers to determine their fitness
 18 for duty.

19 (b) This section shall become operative on January 1, 2005.

20 *SEC. 9. Section 2267 of the Vehicle Code is repealed.*

21 ~~2267. (a) No person shall be appointed as a member of the~~
 22 ~~California Highway Patrol who is not a citizen of the United States.~~

23 ~~(b) A member of the patrol appointed prior to the effective date~~
 24 ~~of this act who is not a United States citizen shall become a United~~
 25 ~~States citizen at the earliest possible time. Inability or failure to~~
 26 ~~comply with this subdivision shall result in termination of~~
 27 ~~employment.~~