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AB-846 Public employment: public officers or employees declared by law to be peace officers. (2019-2020)

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Assembly Bill No. 846

CHAPTER 322

An act to amend Section 1031 of, and to add Section 1031.3 to, the Government Code, and to add Section 13561 to the Penal Code, relating to public employment.

[Approved by Governor September 30, 2020. Filed with Secretary of State September 30, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 846, Burke. Public employment: public officers or employees declared by law to be peace officers.

Existing law defines persons employed in specified capacities to be peace officers in the state of California and authorizes certain entities to appoint and employ peace officers. 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, that peace officers be evaluated by a physician and surgeon or psychologist and found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer.

This bill would require that evaluation to include bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation. The bill would require the Commission on Peace Officer Standards and Training to study, review, and update regulations and screening materials to identify explicit and implicit bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation related to emotional and mental condition evaluations.

This bill would also require every department or agency that employs peace officers to review the job descriptions used in the recruitment and hiring of those peace officers and to make changes that deemphasize the paramilitary aspects of the job and place more emphasis on community interaction and collaborative problem solving, as specified.

By requiring local entities to review and rewrite these job descriptions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1031 of the Government Code is amended to read:

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

(a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.

(b) Be at least 18 years of age.

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

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

(e) Be a high school graduate, pass the General Education Development Test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in AdvancED, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFSSAA).

(f) Be found to be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.

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

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

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

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

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

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

SEC. 2. Section 1031.3 is added to the Government Code, to read:

1031.3. (a) The Commission on Peace Officer Standards and Training, by January 1, 2022, shall study, review, and update their regulations and associated screening materials related to the emotional and mental condition evaluation required by Section 1031 to incorporate both of the following:

(1) Identification of explicit bias towards race or ethnicity, gender, nationality, religion, disability, or sexual orientation.

(2) Identification of implicit bias towards race or ethnicity, gender, nationality, religion, disability, or sexual orientation.

(b) For the purpose of this section, race or ethnicity, gender, nationality, religion, disability, and sexual orientation have the same meaning as incorporated by Section 422.55 of the Penal Code.

SEC. 3. Section 13651 is added to the Penal Code, to read:

13651. (a) Every police department, sheriff's office, or other entity that employs peace officers shall review the job description that is used in the recruitment and hiring of those peace officers and shall make changes that emphasize community-based policing,

familiarization between law enforcement and community residents, and collaborative problem solving, while de-emphasizing the paramilitary aspects of the job.

(b) This section is not intended to alter the required duties of any peace officer.

(c) The Legislature finds and declares that changes to these job descriptions are necessary to allow peace officers to feel like the public can trust law enforcement and to implement problem-solving policing and intelligence-led policing strategies in contrast with reactive policing strategies.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.