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|------|------------------|----------------|--------------|-----------------|------------------|--------------|
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AB-958 Peace officers: law enforcement gangs. (2021-2022)

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Assembly Bill No. 958

CHAPTER 408

An act to add Section 13670 to the Penal Code, relating to peace officers.

[Approved by Governor September 30, 2021. Filed with Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 958, Gipson. Peace officers: law enforcement gangs.

Existing laws defines those persons who are peace officers, the entities authorized to appoint them, and the scope of their authority. Existing law prescribes certain minimum standards for a person to be appointed as a peace officer, including training requirements, moral character, and physical and mental condition, and certain disqualifying factors for a person to be employed as a peace officer, including a felony conviction. Existing law requires a department or agency that employs peace officers to establish a procedure to investigate complaints by members of the public against those officers.

This bill would define a law enforcement gang, a group of law enforcement officers within an agency that engages in a pattern of specified unlawful or unethical on-duty behavior, and would require law enforcement agencies to have a policy prohibiting law enforcement gangs and making participation, as specified, in a law enforcement gang grounds for termination. The bill would require an agency to disclose an officer's termination for involvement in a law enforcement gang to another law enforcement agency conducting a preemployment background investigation of that officer, as specified.

By requiring local law enforcement agencies to adopt new policies, 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. The Legislature finds and declares all of the following:

(a) Law enforcement gangs have been identified within California law enforcement agencies, undermining California's movement to enhance professional standards of policing throughout the state. Law enforcement gangs have been recognized by the Los Angeles Sheriff's Department as damaging to the trust and reputation of law enforcement throughout California.

(b) A law enforcement gang is a group of law enforcement officers within an agency that engage in a pattern of rogue on-duty behavior that violates the law or fundamental principles of professional policing.

(c) Building and preserving trust between California communities and law enforcement agencies, and protecting the integrity of law enforcement as an institution will require agencies to proactively root out “bad apples” including those who participate, formally or informally, in this type of behavior.

(d) Law enforcement agencies must support and promote peer intervention in instances of officer misconduct, including reporting officers suspected of involvement in law enforcement gangs, and must hold those officers accountable through proportionate disciplinary measures when misconduct is proven.

(e) Trust between our communities and law enforcement is dependent on an institutional reconciliation of the historical traumas perpetrated by law enforcement gangs.

SEC. 2. Section 13670 is added to the Penal Code, to read:

13670. (a) For purposes of this section:

(1) “Law enforcement agency” means any department or agency of the state or any local government, special district, or other political subdivision thereof, that employs any peace officer, as described in Section 830.

(2) “Law enforcement gang” means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.

(b) Each law enforcement agency shall maintain a policy that prohibits participation in a law enforcement gang and that makes violation of that policy grounds for termination. A law enforcement agency shall cooperate in any investigation into these gangs by an inspector general, the Attorney General, or any other authorized agency. Notwithstanding any other law, local agencies may impose greater restrictions on membership and participation in law enforcement gangs, including for discipline and termination purposes.

(c) Except as specifically prohibited by law, a law enforcement agency shall disclose the termination of a peace officer for participation in a law enforcement gang to another law enforcement agency conducting a preemployment background investigation of that former peace officer.

SEC. 3. 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.