

Introduced by Senators Bradford and AtkinsDecember 7, 2020

An act relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as introduced, Bradford. Peace officers: certification: civil rights.

Existing law, the Tom Bane Civil Rights Act, authorizes a civil action to be brought against a person who, whether or not acting under color of law, interferes with the exercise of another's constitutional and legal rights. Existing law establishes the Commission on Peace Officer Standards and Training to set minimum standards for the recruitment and training of peace officers and to develop training courses and curriculum. Existing law authorizes the commission to establish a professional certificate program that awards certificates on the basis of a combination of training, education, experience, and other prerequisites, for the purpose of fostering the professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officers. Existing law authorizes the commission to cancel a certificate that was awarded in error or obtained through misrepresentation or fraud, but otherwise prohibits the commission from canceling a certificate that has properly been issued.

This bill would state the intent of the Legislature to enact legislation amending the Tom Bane Civil Rights Act and to provide a decertification process for peace officers.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) As the Legislature and courts of this state have repeatedly
4 recognized, police officers, sheriffs' deputies, and other peace
5 officers hold extraordinary powers to detain, search, arrest, and
6 use force, including deadly force. The state has a correspondingly
7 strong interest in ensuring that peace officers do not abuse their
8 authority, including by ensuring that individual peace officers who
9 abuse their authority are held accountable.

10 (b) California is one of the last few states that does not have a
11 process for revoking peace officer certificates as a result of
12 misconduct. Nationwide, 45 states have the authority to decertify
13 peace officers. Five states do not have decertification authority:
14 California, Hawaii, New Jersey, Massachusetts, and Rhode Island.

15 (c) From 2016 through 2019, police killed 621 Californians,
16 and police departments in our state have some of the highest rates
17 of killings in the nation. Of the unarmed people California police
18 killed, three out of four were people of color. Black and Latino
19 families and communities of color are disproportionately vulnerable
20 to police violence, creating generations of individual and
21 community trauma.

22 (d) More than 200 professions and trades, including doctors,
23 lawyers, and contractors are licensed or certified by the State of
24 California in order to maintain professional standards and to protect
25 the public. Law enforcement officers are entrusted with
26 extraordinary powers, including the power to carry a firearm, stop
27 and search, arrest, and use force. They must be held to the highest
28 standards of accountability, and the state should ensure that officers
29 who abuse their authority by committing serious or repeated
30 misconduct, or otherwise demonstrate a lack of fitness to serve as
31 peace officers, are removed from the streets.

32 (e) To ensure public trust that the system for decertification will
33 hold peace officers accountable for misconduct and that
34 California's standards for law enforcement reflect community
35 values, it is the intent of the Legislature that the entities charged
36 with investigating and rendering decisions on decertification shall
37 be under independent civilian control and maintain independence
38 from law enforcement.

1 (f) Civil courts provide a vital avenue for individuals harmed
2 by violations of the law by peace officers to find redress and
3 accountability. But the judicially created doctrine of qualified
4 immunity in federal courts, and broad interpretations of California
5 law immunities and restrictive views on the cause of action under
6 the Tom Bane Civil Rights Act, too often lead to officers escaping
7 accountability in civil courts, even when they have broken the law
8 or violated the rights of members of the public. The civil court
9 process should ensure that peace officers are treated fairly, but that
10 they can be held accountable for violations of the law that harm
11 others, especially the use of excessive force.

12 SEC. 2. It is the intent of the Legislature to enact legislation
13 amending the Tom Bane Civil Rights Act and to provide a
14 decertification process for peace officers.