

October 18, 2008

08-0017

State of California  
ATTORNEY GENERAL  
Edmund G. Brown, Jr., Attorney General  
1300 I Street  
Sacramento, CA 95814  
(916) 445-4752

**RECEIVED**

OCT 28 2008

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

**RE: Request for Title and Summary for Proposed Constitutional Amendment**  
(Cal. Const., Art. II, Section § 8(a)).


**TO: Edmund Brown, Jr., Attorney General of the State of California,**


We, the undersigned qualified voters of California, residents of Sonoma County, respectfully request the Attorney General prepare a title and summary of the chief purpose and points for the proposed constitutional amendment attached below entitled, The California Public Safety and Law Enforcement Act.


Also enclosed, as required by California Elections Code, Section § 18650, is the filing fee of two-hundred dollars (\$200), and proponent declarations, as required by California Elections Code, Section § 9608.

Please direct any correspondence regarding this initiative to our addresses as registered to vote that we provide below to this letter. If any additional information is required or have any questions, please feel free to contact us.

Respectfully submitted,

  
Tony Avila Sampson, Proponent  
and Registered Voter of Sonoma County, Ca.

  
Rose Marie Sampson, Proponent  
and Registered Voter of Sonoma County, Ca.

  
Floyd Garfield Sampson, Proponent  
and Registered Voter of Sonoma County, Ca.

## CALIFORNIA CONSTITUTION

### ARTICLE XXXVI: THE CALIFORNIA PUBLIC SAFETY AND LAW ENFORCEMENT ACT

- Section 1.** Short title.
- Section 2.** Declaration of purpose.
- Section 3.** Definitions.
- Section 4.** Board created; appointment, terms of members; meetings; rules/regulations.
- Section 5.** Powers and duties of board.
- Section 6.** License required; exemptions.
- Section 7.** Requirements of public officers.
- Section 8.** Requirements of public departments and agencies.
- Section 9.** Maintenance of database.
- Section 10.** Rights of citizens.
- Section 11.** Violations.
- Section 12.** Miscellaneous provisions.
- Section 13.** Conflicts and inconsistencies.
- Section 14.** Severability.

#### **Section 1. Short title.**

Article XXXVI of the Constitution of the State of California shall be known and may be cited as The California Public Safety and Law Enforcement Act.

#### **Section 2. Declaration of purpose.**

The People of the State of California seek to provide a high level of service to the community, safeguard lives and property, and defend the constitutional rights of all people in a safe and secure environment. *The People of this state are obligated to continue their efforts for reform of the law enforcement system they believe requires drastic change.*

The profession of law enforcement exists to serve and protect and in order for them to perform the role they are entrusted with certain privileges, including, but not limited to the use of deadly force. We, the People provide members of law enforcement with the responsibility to enforce the laws and protect individuals and property that must be accomplished pursuant to law.

We, the People allow law enforcement officers to carry weapons to fulfill their responsibility, and the public expects them to use their power appropriately, however, we do not grant them authority to abuse this trust. It is the right and responsibility of citizens to protest police practices they view as unwarranted, unnecessary, or a gross abuse of discretionary authority. For a law enforcement department or agency to view citizen concerns about police practices as a threat makes a mockery of this trust, and the consequences are community fear, ineffective policing, and deteriorating police-community relations. Law enforcement command, sworn officers, and other police department employees must realize that they are part of the greater community, and many have shown this through their volunteerism. However, when they separate from the greater community to protect individual officers who have transgressed, they

also become part of the problem.

The community deserves to know there is a simple complaint process available to them that is fair and impartial to report incidents performed in this state under the color of law that involve inappropriate conduct, including, but not limited to, creating or maintaining false records or reports, brutality, excessive force, or rudeness.

It is the intent of the People in this state that only public officers who meet and maintain prescribed standards of competence may exercise the power to make an arrest where the implementation of force must be reasonable in nature and not excessive, yet, necessarily must be deadly at times, whereas the profession of public law enforcement or occupation requires high standards of public responsibility, character, and performance of each individual engaged in the profession or occupation. Accountability is owed to the community when death occurs as a result of the use of deadly force and for which the state must provide its own independent review and determination of the facts, however, subject further to judicial review.

### **Section 3. Definitions.**

The following terms shall have the meanings respectively ascribed to them used in the Constitution of the State of California, for the purposes of this Article, unless the context clearly requires a different meaning:

- (1) "Article" means Article XXXVI of the Constitution of the State of California.
- (2) "Board" means the California Law Enforcement State License Board.
- (3) "Licensing act" means the individual statute or regulations, or both, of a regulated profession or occupation which include, but not limited to, governance, the qualifications and requirements for authorization to practice, prohibitions, and disciplinary procedures;
- (4) "Licensee" means a person granted an authorization to practice pursuant to this article and refers to a person holding a license, permit, certification, or registration granted pursuant to this article.

### **Section 4. Board created, appointment, terms of members, meetings, rules/regulations.**

A) The California Law Enforcement State License Board is hereby created and shall consist of Thirteen members appointed by the Governor. The Board shall regulate the licenser, certification, or qualification of state, county and city public officials to practice a profession within the state, where the service is for the protection and safety of lives and property and the defense of the constitutional rights of all people.

B) The Board shall consist of the following persons:

- (1) Seven public members, one of whom is a member of a nonprofit public interest organization in this state, one of whom is a member of public education in this state, one of whom is a member of the public news media community in this state, and four of whom are representative of the general population and may include, among others, a retiree, homemaker, person of median income or person living below the established level of poverty when selected;
- (2) Three members who have experience in the business community, one of

whom is an executive of a corporation incorporated in this State which ranks among the largest private sector employers in this State based on the number of employees employed by the corporation in this State, one of whom is an owner of a small business in this State, and one of whom is a member of a financial institution in this state;

(3) Three members who have experience in the medical community in this state, one of whom is a doctor in this state, and two of whom are members of the mental health community, such as a psychologist or psychiatrist.

C) The Governor shall strive insofar as practicable to provide a balanced representation of the geographic, gender, racial, and ethnic diversity of the State in appointing Board members.

D) The Governor shall designate a chairperson for the Board not later than 30 days after the effective date of this section. The terms of four of the initial appointees shall expire on December 31, 2012, four on Dec 31, 2014, and four on December 31, 2016, as determined by the Governor. Thereafter, the term of each member shall be for six years. Within 15 days of any vacancy, the Governor shall appoint a person to serve the unexpired portion of the term.

E) The Board may employ such officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred upon the Board, may arrange for and compensate medical and other experts and reporters, may arrange for attendance of witnesses, including witnesses not subject to subpoena, and may pay from funds available to it all expenses reasonably necessary for effectuating the purposes of Article XXXVI of the Constitution, whether or not specifically enumerated herein. The Attorney General shall, if requested by the Board, act as its counsel generally or in any particular investigation or proceeding. The Board may employ special counsel from time to time when it deems such employment necessary.

F) Public notice shall be given of all meetings of the Board, and the meetings shall be open to the public.

G) No current or former law enforcement officer of this State is eligible for appointment to the Board.

## **Section 5. Powers and duties of board.**

The Board shall have authority to:

(1) set notice of application, application and renewal fees in an amount that will support all administrative and operating costs of the Board, including any other expense the Board may deem necessary;

(2) require a bond to be posted and maintained for each license, certificate or qualification issued by the Board;

(3) set bond amounts as determined by the Board;

(4) require proof of insurance coverage;

(5) set amounts of insurance coverage as determined by the Board;

(6) shall have a budgetary independence;

(7) conduct independent investigations;

(8) have the powers to compel the testimony of any police officer, deputy sheriff or other state, county or city public officer, agent, or member of any department or agency in all matters,

including, but not limited to the power to compel the production of all electronic or written records, papers, memorandum or reports relevant to the inquiry or hearing as determined by the Board. A witness shall have the right to refuse to answer any question which will incriminate himself or herself when the right to do so is exercised pursuant to the Fifth Amendment of the United States Constitution in the manner set forth by the Board;

- (9) provide an appeal process;
- (10) report directly to the Office of the Governor and the People of the State of California;
- (11) maintain separate office locations;
- (12) provide to the general public a simple complaint process;
- (13) conduct public hearings;
- (14) maintain a database;
- (15) compel competent exercise of law enforcement provided by state, county and city departments and agencies where the service is for the protection and safety of lives and property and the defense of the constitutional rights of all people;
- (16) regulate the exercise of law enforcement of state, county and city departments and agencies where the service is for the protection and safety of lives and property and the defense of the constitutional rights of all people;
- (17) adopt regulations providing for the issuance, suspension, revocation or cancellation of any license, certificate or qualification issued to any public officer for the purpose of law enforcement in this state pursuant to this Article;
- (18) adopt or carry out a regulation that authorizes the withdrawal or revocation of any certificate, license, or qualification previously issued to a public officer for the purpose of law enforcement pursuant to this Article;
- (19) cancel a license or certificate previously issued to a public officer for the purpose of law enforcement pursuant to this Article;
- (20) direct a grand jury to be drawn. Members of the grand jury shall be appointed and seated by the Board.
- (21) adopt those regulations as are necessary to carry out the purposes of this Article.

#### **Section 6. License required, exemptions.**

- a) Every person employed by a state, county or city department or agency in this state who exercises the power to arrest, search or seize in performance of his or her duties is required to possess a valid law enforcement state license;
- b) A state license shall not be required to make an arrest when made by a private citizen;
- c) Members of the California Law Enforcement State License Board are excluded from any license requirement that would otherwise be required by this Article.

#### **Section 7. Requirements of public officers.**

A state, county or city public officer shall, in addition to any other law, rule or regulation, be required to:

- (1) submit to the California Law Enforcement State License Board notice of intent to make application for the exercise of state power to arrest, search or seize in the performance of

public duties;

(2) make application to the California Law Enforcement State License Board for a license or certificate of authorization to exercise the power of this state to arrest another when acting in the capacity of a public officer;

(3) post a bond in an amount set forth by the Board;

(4) provide proof and maintenance of insurance coverage as determined by the Board;

(5) possess a valid law enforcement state license to arrest anyone when acting in the capacity of a public officer;

(6) be required to exercise the power of arrest and use of force in a manner provided by law;

(7) renew a law enforcement state license once each year or in a manner established by the Board;

(8) provide to the state, the recovery of costs in an administrative disciplinary proceeding when a violation of any rule or procedure set forth by the Board is found or determined to be a violation.

### **Section 8. Requirements of public departments and agencies.**

Each state, county and city department or agency who employs any person to serve and protect the safety of lives and property shall, in addition to any other law, rule or regulation, be required to:

a) provide the necessary training to assist their officers in diffusing situations and de-escalating violence;

b) adopt policies and train officers of alternatives to deadly use of force. It shall be the policy of this state that deadly force is the option of last resort;

c) identify troubled or at-risk officers;

d) notify the California Law Enforcement State License Board when:

(1) troubled or at-risk officers are identified;

(2) a critical incident involving deadly force was used by any state, county or city law enforcement officer of this state that resulted in serious bodily injury or death;

(3) any existing alternatives available to the officer when death occurs from the deadly use of force utilized by the officer.

### **Section 9. Maintenance of database.**

a) The Board shall maintain a data base of every state, county or city public officer who:

(i) has been identified by a state, county or city department or agency as troubled or at-risk; or

(ii) has exercised serious bodily injury or death upon another in the performance of public duties while acting under color of law;

b) Whenever the California Law Enforcement State License Board is notified that a state, county or city law enforcement officer has been identified as troubled or at-risk, the name of such officer shall be maintained in its data base;

c) Whenever the California Law Enforcement State License Board is notified that a critical incident involving deadly force was used by any state, county or city law enforcement

officer of this state that resulted in serious bodily injury, the name of such officer shall be maintained in its data base. The Board may conduct its own independent review of the incident;

d) Whenever the California Law Enforcement State License Board is notified that a critical incident involving deadly force was used by any state, county or city law enforcement officer of this state that resulted in death, the name of that officer will be maintained in its data base. The Board will be required to conduct its own independent review and report of the incident. The report prepared by the Board shall include alternatives, if any, that were available but not utilized by the officer.

#### **Section 10. Rights of citizens.**

It is the right of each citizen to initiate a complaint against any state, county or city public officer, department or agency for inappropriate conduct, including, but not limited to, creating or maintaining false records or reports, brutality, excessive force, or rudeness, and the complainant shall not be deterred or dissuaded from doing so.

#### **Section 11. Violations.**

Every public officer who violates Subsection 6, 7 or 10 of Article XXXVI of the Constitution of the State of California shall forfeit the right or privilege to any immunity that may otherwise be available to such officer.

#### **Section 12. Miscellaneous provisions.**

a) A state license, certificate or qualification shall not make lawful an arrest that is made in an unlawful manner.

b) Any arrest made by a public officer, shall in addition to any other law:

(1) be grounds for investigation by the Board;

(2) is subject to additional requirements set forth by the Board whereby discipline may be provided in addition to any other criminal or civil remedies that may be available, whether or not any other remedy is pursued;

c) Any other criminal or civil remedy available may be pursued in addition to any action taken by the Board.

#### **Section 13. Conflicts and inconsistencies.**

a) This Article shall supersede all laws in conflict therewith;

b) All laws inconsistent with the provisions hereof are hereby repealed.

#### **Section 14. Severability.**

The provisions of this Act are severable. If any provision of this Act or its application is held invalid, that finding shall not affect other provisions or applications that can be given effect without the invalid provision or application.