

CALIFORNIA DEPARTMENT OF JUSTICE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

**CHAPTER 11. CALIFORNIA LAW ENFORCEMENT ACCOUNTABILITY REFORM
ACT**

**ATTACHMENT A TO STD 399 ECONOMIC IMPACT STATEMENT FOR
REGULATIONS IMPLEMENTING AB 655**

The Department of Justice has determined that the proposed regulations are unlikely (1) to create or eliminate jobs within the state, (2) to create new businesses or eliminate existing businesses within the state, or (3) to result in the expansion of businesses currently doing business within the state.

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents by removing peace officers who, through their engagement in the misconduct identified by the statute, have demonstrated a significant likelihood of eroding public confidence in law enforcement, which serves to undermine public safety, as well as engaging in acts of unlawful discrimination, unlawful use of force, and other abuses of constitutional rights under color of law. All Californians stand to benefit from the removal from office of perpetrators of the misconduct identified in the statute.

(2) The proposal would benefit worker safety by removing from employment law enforcement personnel who have been found to have engaged in misconduct demonstrating bias, engagement in hate crimes, or other characteristics that pose an imminent danger to other personnel.

(3) The proposal would have no effect on the State's environment.

The Vast Majority of Estimated Fiscal and Estimated Costs Are Required, Not by the Regulations, but by AB 655 or Other Statutory Mandates.

AB 655 requires agencies to investigate, or cause to be investigated, complaints about their law enforcement personnel if the complaints allege membership in a hate group, participation in hate group activity, or advocacy of public expressions of hate within the last seven years and when the officer is 18 years of age or older, and, if the complaint is sustained the agency must remove the officer from appointment as a peace officer. AB 655 requires the Department of Justice to promulgate guidelines for the investigation and adjudication of such complaints.

Several bill analyses written by the Legislature in analyzing AB 655 contain fiscal and economic impact estimates anticipated if AB 655 became law. All of these estimates relate to costs

anticipated by implementing the bill itself, and not by the proposed regulations submitted by the Department.¹

Moreover, most of the statute's mandates regarding the investigation and adjudication of investigations of certain misconduct are a subset of other mandates contained in other statutes. Specifically, Penal Code section 832.5 requires that agencies employing peace officers accept civilian complaints from members of the public regarding peace officers, and requires the agencies to develop a complaint process for these complaints.²

In addition, Penal Code section 13012 requires that these civilian complaints be reported annually to the California Department of Justice. AB 655 complaints from members of the public would fall under both of these statutory mandates.

Finally, AB 655 misconduct that occurs during an individual's tenure as a peace officer is a subset of the "serious misconduct" defined in Penal Code section 13510.8 and related regulations, which an agency is required to report to the Commission on Peace Officer Standards and Training (POST) within 10 days of learning of such misconduct.³

Any Economic or Fiscal Costs Imposed by the Regulations Are De Minimis.

As noted above, it is the statute, and not the regulations, that require agencies to investigate and adjudicate complaints about certain types of conduct.

In order to ensure a robust and transparent investigative and adjudicative process, the proposed regulations require that (1) complaints alleging AB 655-related misconduct be logged; (2) investigators be trained in order to ensure thorough and unbiased investigations; and (3) agencies conduct quarterly internal audits of complaints that were deemed not to warrant investigation and provide the audit report and findings to the agency's chief executive. In addition, if requested by the Department of Justice, agencies are also to make the following available for the Department's inspection: documents related to these audits, any AB 655 investigation or

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB655

² Unlike Penal Code section 832.5, AB 655 also applies to internal complaints regarding certain misconduct of peace officers. Again, however, this mandate flows from the statute itself, and not from the proposed regulations.

³ Pen. Code, § 13510.8, subd. (b) [requiring the Commission to adopt, by regulation, a definition of "serious misconduct" that shall serve as criteria for determining ineligibility for, or revocation of, certification]. Cal. Code Regs., tit. 11, § 1205, subd. (a)(5) ["serious misconduct" includes "[d]emonstrating bias on the basis of actual or perceived race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner"]; Pen. Code, § 13510.9, sub. (a)(2) [requiring agencies to report within 10 days "[a]ny complaint, charge, or allegation of conduct against a peace officer employed by that agency that could render a peace officer subject to suspension or revocation of certification by the commission pursuant to Section 13510.8."].

adjudication, and any other aspect of implementation of Penal Code section 13682, including training, policies, or internal reviews.

Regarding the logging process, it is difficult to determine any anticipated costs, given that that AB 655 is a new statute. Agencies are already required to accept any civilian complaints of any type of misconduct and report summary data (the number of complaints and the type of misconduct alleged) to the Department of Justice. (*See* Pen. Code, § 832.5; Pen. Code, § 13012.) Accordingly, it is presumed that logging and reporting these additional complaints could be subsumed within existing policies or, to the extent they require additional resources, that these would be minimal.

Regarding the training requirements, law enforcement agencies are already required to investigate allegations of “serious misconduct” within the meaning of Penal Code section 13510.8. (Pen. Code, § 13510.8, subd. (c) (1) [“Beginning no later than January 1, 2023, each law enforcement agency shall be responsible for the completion of investigations of allegations of serious misconduct by a peace officer, regardless of their employment status.”].) And POST is also charged with providing materials designed to train agencies on how to investigate allegations of “biased conduct” within the meaning of Penal Code section 13510.6, subdivision (a). Specifically, effective January 1, 2026, POST is to develop “guidance for local law enforcement departments on performing effective internet and social media screenings of officer applicants. The guidance shall include, at minimum, strategies for identifying applicant social media profiles and for searching for, and identifying, content indicative of potential biases, such as affiliation with hate groups.” (Pen. Code, § 13510.6, subd. (c).) Agencies will be required to determine if complaints involve racial profiling, within the meaning of Penal Code section 13514.9, subd. (e). (Pen. Code, § 13510.6, subd. (d).) Penal Code section 13510.6 provides:

“When investigating any bias-related complaint or incident that involves possible indications of officer bias, a law enforcement agency shall determine whether the conduct being investigated constitutes “biased conduct,” using the definition developed by the commission in accordance with subdivision (a).”

Pen. Code, § 13510.6, subd. (b).)

Accordingly, the training required by the proposed regulations will likely overlap substantially with the mandates required in Penal Code section 13510.6, which includes the development by POST of guidelines regarding social media searches for screening applicants, which will likely be useful and relevant for AB 655 investigations by agencies, as well as the requirement that agencies determine if racial profiling and “biased conduct” have occurred.

Regarding the requirement that agencies audit complaints that were not deemed to warrant investigations, and the requirement that agencies provide the Department with AB 655-relevant documents upon request, it is difficult to determine what fiscal impact, if any, this will have on agencies. The Department anticipates that any such costs would be mostly subsumed in current best practices and any additional resources would be de minimis. For example, with respect to audits, agencies have great discretion in how they are conducted and can elect to conduct them in a cost-effective manner. Moreover, with respect to providing documents to the Department, the

proposed regulations provide a more direct process for the Department to inspect documents but does not impose any new obligations, as the Department has existing authority to demand documents pursuant to Government Code section 11180 et seq.

Regarding economic impact on the private sector, it is possible that agencies may utilize outside vendors for auditing or training, which would result in fiscal cost to agencies and economic benefit to the private sector. Again, such costs are difficult to ascertain but in any event would likely be *de minimis*, especially because agencies are already under mandate from other statutes to conduct effective investigations regarding biased conduct and serious misconduct, which would include AB 655 covered misconduct.

Conclusion

The Department concludes that the proposed regulations are unlikely (1) to create or eliminate jobs within the state, (2) to create new businesses or eliminate existing businesses within the state, or (3) to result in the expansion of businesses currently doing business within the state.

The statutory provisions implemented by the proposed regulations directly affect only state and local government agencies,⁴ which will be required to accept complaints of certain forms of misconduct, to provide variable levels of investigation and review of those complaints, and to adjudicate substantiated complaints. It is impossible to predict even a very approximate cost to affected agencies, because, given the covert nature of the misconduct at issue and the novelty of the statute itself, there are no reliable estimates of the extent of misconduct at issue or of the likelihood that such misconduct will ultimately be reported.

In any event, the proposed regulations do not impose any significant costs beyond those imposed by the statute itself. As much as possible, the proposed regulations permit affected agencies to integrate the statute's requirements into existing policies. Particularly given that all affected agencies are already required to accept and investigate complaints of misconduct (*see, e.g.*, Pen. Code, § 832.5), to the extent that the regulations themselves impose any burden in terms of required labor, that burden is both *de minimis* and the minimum necessary to give effect to the aims of the statute.

The implementation of the regulations will not require substantial hiring of new personnel, purchase of information technology, or entry into contracts for labor or equipment.

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents by removing peace officers who, through their engagement in the misconduct identified by the statute, undermine the public trust's in law enforcement and have demonstrated a significant likelihood of engaging in acts of unlawful discrimination, unlawful use of force, and other abuses of constitutional rights

⁴ While the regulations do contemplate the possibility that a federal agency may fill the role of Appropriate Oversight Agency, such as if a local agency is under federal monitoring or receivership, a federal agency would not be bound by these regulations.

under color of law. All Californians stand to benefit from the removal from office of perpetrators of the misconduct identified in the statute.

(2) The proposal would benefit worker safety by removing from employment law enforcement personnel who have been found to have engaged in misconduct representing bias, engagement in hate crimes, or other characteristics that pose an imminent danger to other personnel.

(3) The proposal would not benefit the state's environment.