

AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 847

Introduced by Assembly Member Sharp-Collins

February 19, 2025

An act to amend Section ~~26~~ 832.7 of the Penal Code, relating to ~~crimes~~; *peace officers*.

LEGISLATIVE COUNSEL’S DIGEST

AB 847, as amended, Sharp-Collins. ~~Crimes.~~ *Peace officers: confidentiality of records.*

Existing law, the California Public Records Act, authorizes the inspection and copying of any public record except where specifically prohibited by law. Existing law, with specified exemptions, makes confidential the personnel records of peace officers and custodial records and certain other records maintained by their employing agencies. Existing law provides that this exemption from disclosure does not apply to investigations of these officers or their employing agencies and relating proceedings conducted by a grand jury, a district attorney’s office, or the Attorney General’s office.

This bill would additionally grant access to the confidential personnel records of peace officers and custodial officers and records maintained by their employing agencies, as specified, to civilian law enforcement oversight boards or commissions during investigations or proceedings concerning the conduct of those officers.

~~Existing law specifies the classes of people who are not capable, legally, of committing crimes in the state.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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. Section 832.7 of the Penal Code is amended to
2 read:

3 832.7. (a) Except as provided in subdivision (b), the personnel
4 records of peace officers and custodial officers and records
5 maintained by a state or local agency pursuant to Section 832.5,
6 or information obtained from these records, are confidential and
7 shall not be disclosed in any criminal or civil proceeding except
8 by discovery pursuant to Sections 1043 and 1046 of the Evidence
9 Code. This section does not apply to investigations or proceedings
10 concerning the conduct of peace officers or custodial officers, or
11 an agency or department that employs those officers, conducted
12 by a grand jury, a district attorney's office, the Attorney General's
13 office, or the Commission on Peace Officer Standards and Training.
14 ~~Training, or a civilian oversight board or commission for a law~~
15 ~~enforcement agency established pursuant to subdivision (a) of~~
16 ~~Section 25303.7 of the Government Code or other duly enacted~~
17 ~~municipal or county ordinance.~~

18 (b) (1) Notwithstanding subdivision (a), Section 7923.600 of
19 the Government Code, or any other law, the following peace officer
20 or custodial officer personnel records and records maintained by
21 a state or local agency shall not be confidential and shall be made
22 available for public inspection pursuant to the California Public
23 Records Act (Division 10 (commencing with Section 7920.000)
24 of Title 1 of the Government Code):

25 (A) A record relating to the report, investigation, or findings of
26 any of the following:

27 (i) An incident involving the discharge of a firearm at a person
28 by a peace officer or custodial officer.

29 (ii) An incident involving the use of force against a person by
30 a peace officer or custodial officer that resulted in death or in great
31 bodily injury.

32 (iii) A sustained finding involving a complaint that alleges
33 unreasonable or excessive force.

34 (iv) A sustained finding that an officer failed to intervene against
35 another officer using force that is clearly unreasonable or excessive.

1 (B) (i) Any record relating to an incident in which a sustained
2 finding was made by any law enforcement agency or oversight
3 agency that a peace officer or custodial officer engaged in sexual
4 assault involving a member of the public.

5 (ii) As used in this subparagraph, “sexual assault” means the
6 commission or attempted initiation of a sexual act with a member
7 of the public by means of force, threat, coercion, extortion, offer
8 of leniency or other official favor, or under the color of authority.
9 For purposes of this definition, the propositioning for or
10 commission of any sexual act while on duty is considered a sexual
11 assault.

12 (iii) As used in this subparagraph, “member of the public” means
13 any person not employed by the officer’s employing agency and
14 includes any participant in a cadet, explorer, or other youth program
15 affiliated with the agency.

16 (C) Any record relating to an incident in which a sustained
17 finding was made by any law enforcement agency or oversight
18 agency involving dishonesty by a peace officer or custodial officer
19 directly relating to the reporting, investigation, or prosecution of
20 a crime, or directly relating to the reporting of, or investigation of
21 misconduct by, another peace officer or custodial officer, including,
22 but not limited to, any false statements, filing false reports,
23 destruction, falsifying, or concealing of evidence, or perjury.

24 (D) Any record relating to an incident in which a sustained
25 finding was made by any law enforcement agency or oversight
26 agency that a peace officer or custodial officer engaged in conduct
27 including, but not limited to, verbal statements, writings, online
28 posts, recordings, and gestures, involving prejudice or
29 discrimination against a person on the basis of race, religious creed,
30 color, national origin, ancestry, physical disability, mental
31 disability, medical condition, genetic information, marital status,
32 sex, gender, gender identity, gender expression, age, sexual
33 orientation, or military and veteran status.

34 (E) Any record relating to an incident in which a sustained
35 finding was made by any law enforcement agency or oversight
36 agency that the peace officer made an unlawful arrest or conducted
37 an unlawful search.

38 (2) Records that are subject to disclosure under clause (iii) or
39 (iv) of subparagraph (A) of paragraph (1), or under subparagraph
40 (D) or (E) of paragraph (1), relating to an incident that occurs

1 before January 1, 2022, shall not be subject to the time limitations
2 in paragraph (11) until January 1, 2023.

3 (3) Records that shall be released pursuant to this subdivision
4 include all investigative reports; photographic, audio, and video
5 evidence; transcripts or recordings of interviews; autopsy reports;
6 all materials compiled and presented for review to the district
7 attorney or to any person or body charged with determining
8 whether to file criminal charges against an officer in connection
9 with an incident, whether the officer's action was consistent with
10 law and agency policy for purposes of discipline or administrative
11 action, or what discipline to impose or corrective action to take;
12 documents setting forth findings or recommended findings; and
13 copies of disciplinary records relating to the incident, including
14 any letters of intent to impose discipline, any documents reflecting
15 modifications of discipline due to the Skelly or grievance process,
16 and letters indicating final imposition of discipline or other
17 documentation reflecting implementation of corrective action.
18 Records that shall be released pursuant to this subdivision also
19 include records relating to an incident specified in paragraph (1)
20 in which the peace officer or custodial officer resigned before the
21 law enforcement agency or oversight agency concluded its
22 investigation into the alleged incident.

23 (4) A record from a separate and prior investigation or
24 assessment of a separate incident shall not be released unless it is
25 independently subject to disclosure pursuant to this subdivision.

26 (5) If an investigation or incident involves multiple officers,
27 information about allegations of misconduct by, or the analysis or
28 disposition of an investigation of, an officer shall not be released
29 pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1),
30 unless it relates to a sustained finding regarding that officer that
31 is itself subject to disclosure pursuant to this section. However,
32 factual information about that action of an officer during an
33 incident, or the statements of an officer about an incident, shall be
34 released if they are relevant to a finding against another officer
35 that is subject to release pursuant to subparagraph (B), (C), (D),
36 or (E) of paragraph (1).

37 (6) An agency shall redact a record disclosed pursuant to this
38 section only for any of the following purposes:

39 (A) To remove personal data or information, such as a home
40 address, telephone number, or identities of family members, other

1 than the names and work-related information of peace and custodial
2 officers.

3 (B) To preserve the anonymity of whistleblowers, complainants,
4 victims, and witnesses.

5 (C) To protect confidential medical, financial, or other
6 information of which disclosure is specifically prohibited by federal
7 law or would cause an unwarranted invasion of personal privacy
8 that clearly outweighs the strong public interest in records about
9 possible misconduct and use of force by peace officers and
10 custodial officers.

11 (D) Where there is a specific, articulable, and particularized
12 reason to believe that disclosure of the record would pose a
13 significant danger to the physical safety of the peace officer,
14 custodial officer, or another person.

15 (7) Notwithstanding paragraph (6), an agency may redact a
16 record disclosed pursuant to this section, including personal
17 identifying information, where, on the facts of the particular case,
18 the public interest served by not disclosing the information clearly
19 outweighs the public interest served by disclosure of the
20 information.

21 (8) An agency may withhold a record of an incident described
22 in paragraph (1) that is the subject of an active criminal or
23 administrative investigation, in accordance with any of the
24 following:

25 (A) (i) During an active criminal investigation, disclosure may
26 be delayed for up to 60 days from the date the misconduct or use
27 of force occurred or until the district attorney determines whether
28 to file criminal charges related to the misconduct or use of force,
29 whichever occurs sooner. If an agency delays disclosure pursuant
30 to this clause, the agency shall provide, in writing, the specific
31 basis for the agency's determination that the interest in delaying
32 disclosure clearly outweighs the public interest in disclosure. This
33 writing shall include the estimated date for disclosure of the
34 withheld information.

35 (ii) After 60 days from the misconduct or use of force, the
36 agency may continue to delay the disclosure of records or
37 information if the disclosure could reasonably be expected to
38 interfere with a criminal enforcement proceeding against an officer
39 who engaged in misconduct or used the force. If an agency delays
40 disclosure pursuant to this clause, the agency shall, at 180-day

1 intervals as necessary, provide, in writing, the specific basis for
2 the agency's determination that disclosure could reasonably be
3 expected to interfere with a criminal enforcement proceeding. The
4 writing shall include the estimated date for the disclosure of the
5 withheld information. Information withheld by the agency shall
6 be disclosed when the specific basis for withholding is resolved,
7 when the investigation or proceeding is no longer active, or by no
8 later than 18 months after the date of the incident, whichever occurs
9 sooner.

10 (iii) After 60 days from the misconduct or use of force, the
11 agency may continue to delay the disclosure of records or
12 information if the disclosure could reasonably be expected to
13 interfere with a criminal enforcement proceeding against someone
14 other than the officer who engaged in the misconduct or used the
15 force. If an agency delays disclosure under this clause, the agency
16 shall, at 180-day intervals, provide, in writing, the specific basis
17 why disclosure could reasonably be expected to interfere with a
18 criminal enforcement proceeding, and shall provide an estimated
19 date for the disclosure of the withheld information. Information
20 withheld by the agency shall be disclosed when the specific basis
21 for withholding is resolved, when the investigation or proceeding
22 is no longer active, or by no later than 18 months after the date of
23 the incident, whichever occurs sooner, unless extraordinary
24 circumstances warrant continued delay due to the ongoing criminal
25 investigation or proceeding. In that case, the agency must show
26 by clear and convincing evidence that the interest in preventing
27 prejudice to the active and ongoing criminal investigation or
28 proceeding outweighs the public interest in prompt disclosure of
29 records about misconduct or use of force by peace officers and
30 custodial officers. The agency shall release all information subject
31 to disclosure that does not cause substantial prejudice, including
32 any documents that have otherwise become available.

33 (iv) In an action to compel disclosure brought pursuant to
34 Section 7923.000 of the Government Code, an agency may justify
35 delay by filing an application to seal the basis for withholding, in
36 accordance with Rule 2.550 of the California Rules of Court, or
37 any successor rule, if disclosure of the written basis itself would
38 impact a privilege or compromise a pending investigation.

39 (B) If criminal charges are filed related to the incident in which
40 misconduct occurred or force was used, the agency may delay the

1 disclosure of records or information until a verdict on those charges
2 is returned at trial or, if a plea of guilty or no contest is entered,
3 the time to withdraw the plea pursuant to Section 1018.

4 (C) During an administrative investigation into an incident
5 described in paragraph (1), the agency may delay the disclosure
6 of records or information until the investigating agency determines
7 whether the misconduct or use of force violated a law or agency
8 policy, but no longer than 180 days after the date of the employing
9 agency's discovery of the misconduct or use of force, or allegation
10 of misconduct or use of force, by a person authorized to initiate
11 an investigation.

12 (9) A record of a complaint, or the investigations, findings, or
13 dispositions of that complaint, shall not be released pursuant to
14 this section if the complaint is frivolous, as defined in Section
15 128.5 of the Code of Civil Procedure, or if the complaint is
16 unfounded.

17 (10) The cost of copies of records subject to disclosure pursuant
18 to this subdivision that are made available upon the payment of
19 fees covering direct costs of duplication pursuant to subdivision
20 (a) of Section 7922.530 of the Government Code shall not include
21 the costs of searching for, editing, or redacting the records.

22 (11) Except to the extent temporary withholding for a longer
23 period is permitted pursuant to paragraph (8), records subject to
24 disclosure under this subdivision shall be provided at the earliest
25 possible time and no later than 45 days from the date of a request
26 for their disclosure.

27 (12) (A) For purposes of releasing records pursuant to this
28 subdivision, the lawyer-client privilege does not prohibit the
29 disclosure of either of the following:

30 (i) Factual information provided by the public entity to its
31 attorney or factual information discovered in any investigation
32 conducted by, or on behalf of, the public entity's attorney.

33 (ii) Billing records related to the work done by the attorney so
34 long as the records do not relate to active and ongoing litigation
35 and do not disclose information for the purpose of legal
36 consultation between the public entity and its attorney.

37 (B) This paragraph does not prohibit the public entity from
38 asserting that a record or information within the record is exempted
39 or prohibited from disclosure pursuant to any other federal or state
40 law.

(13) Notwithstanding subdivision (a) or any other law, an agency that formerly employed a peace officer or custodial officer may, without receiving a request for disclosure, disclose to the public the termination for cause of that officer by that agency for any disclosable incident, including those described in subparagraphs (A) to (E), inclusive, of paragraph (1). Any such disclosure shall be at the discretion of the agency and shall not include any information otherwise prohibited from disclosure. This paragraph is declaratory of existing law.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the complaining party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision is not conclusive or binding or admissible as evidence in any separate

1 or subsequent action or proceeding brought before an arbitrator,
2 court, or judge of this state or the United States.

3 (g) This section does not affect the discovery or disclosure of
4 information contained in a peace or custodial officer's personnel
5 file pursuant to Section 1043 of the Evidence Code.

6 (h) This section does not supersede or affect the criminal
7 discovery process outlined in Chapter 10 (commencing with
8 Section 1054) of Title 6 of Part 2, or the admissibility of personnel
9 records pursuant to subdivision (a), which codifies the court
10 decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

11 (i) Nothing in this chapter is intended to limit the public's right
12 of access as provided for in *Long Beach Police Officers*
13 *Association v. City of Long Beach* (2014) 59 Cal.4th 59.

14 ~~SECTION 1. Section 26 of the Penal Code is amended to read:~~

15 ~~26. All persons are capable of committing crimes except those~~
16 ~~belonging to the following classes:~~

17 ~~(a) A child under 14 years of age, in the absence of clear proof~~
18 ~~that, at the time of committing the act charged against them, the~~
19 ~~child knew the act's wrongfulness.~~

20 ~~(b) A person who is mentally incapacitated.~~

21 ~~(c) A person who committed the act or made the omission~~
22 ~~charged under an ignorance or mistake of fact, which disproves~~
23 ~~any criminal intent.~~

24 ~~(d) A person who committed the act charged without being~~
25 ~~conscious thereof.~~

26 ~~(e) A person who committed the act or made the omission~~
27 ~~charged through misfortune or by accident, when it appears that~~
28 ~~there was no evil design, intention, or culpable negligence.~~

29 ~~(f) Unless the crime is punishable by death, a person who~~
30 ~~committed the act or made the omission charged under threats or~~
31 ~~menaces sufficient to show that they had reasonable cause to, and~~
32 ~~did, believe their life would be endangered if they refused.~~