



## **SB 2 – Kenneth Ross Jr. Police Decertification Act of 2021**

### **SUMMARY**

SB 2 would increase accountability for law enforcement officers that commit serious misconduct and illegally violate a person’s civil rights.

The bill creates a fair and impartial statewide process to revoke the certification of a law enforcement officer following the conviction of certain serious crimes or termination from employment due to misconduct. The bill would authorize the Commission on Peace Officer Standards and Training (P.O.S.T.) to revoke a certificate on specified grounds, as set forth in regulations by the Commission, with due process rights from an administrative law judge.

Finally, the bill strengthens California’s key civil rights law to prevent abuse from law enforcement and other civil rights violations.

### **BACKGROUND**

Nationwide, 46 states have the authority to decertify law enforcement officers. Four states do not have decertification authority: California, Hawaii, New Jersey, and Rhode Island. California, before 2003, nearly expanded its decertification authority through the administrative process. Under current state law, a peace officer can only have their certificate revoked if the certificate was obtained by fraud or misrepresentation or issued as a result of administrative error.

Of the 45 states that have authority to decertify peace officers, there is much variation in how decertification is administered. The two states that have revoked the most peace officer certificates are

Florida and Georgia, which account for approximately 40% of officer decertification nationwide. There are various reasons why Florida and Georgia lead in peace officer decertification, but one of the leading reasons for their respective large numbers is due to the inquiries into misconduct without regard to conviction for certain crimes.

Decertification is one method to improve the state’s accountability for peace officers, but the law must also be strengthened to protect Californians’ civil rights. California, like the federal system, relies on a system of private enforcement of civil rights, requiring robust civil rights laws to protect our cherished constitutional rights. The Tom Bane Civil Rights Act has become one of the most important California civil rights laws. Bane Act claims are included whenever constitutional or other rights are violated by government or private actors, from law enforcement use of excessive force or false arrest, to discrimination, deprivation of medical care in jails or state hospitals, wrongful seizures of property, or violations of voting rights.

The Bane Act provides a private right of action for damages against any person who “interferes,” or “attempts to interfere by threat, intimidation, or coercion,” with the exercise or enjoyment of rights under California or federal law. The Bane Act can apply to both public and private violations of rights. Unfortunately, as the Bane Act has become more utilized, defendants have argued for restrictive court interpretations of the law, and many state and federal courts have issued decisions that greatly impair the reach and effectiveness of this important civil rights remedy.



## PROBLEM

For years, there have been numerous stories of bad-acting officers committing misconduct and not facing any serious consequences. These officers remain on the force after pleading down to a lesser crime, if prosecuted and convicted at all. Other times, these problematic officers resign or are fired from their employer only to get rehired at another law enforcement agency and continue to commit serious acts of misconduct. California does not have a uniform, statewide mechanism to hold law enforcement officers accountable. Allowing the police to police themselves has proven to be dangerous and leads to added distrust between communities of color and law enforcement.

Furthermore, the Bane Act has been under assault and its original intent undermined. Federal courts have made the doctrine of qualified immunity a more potent obstacle to achieving justice for violations of rights under the federal civil rights law. Revisions are needed to address and clarify a number of recent negative court decisions that brought the Bane Act further out of alignment with its counterpart in federal law. Given the federal issue of qualified immunity, the Bane Act must be a strong resource to defend California civil rights.

## SOLUTION

SB 2 creates a fair and impartial statewide process with due process safeguards to revoke a law enforcement officer's certification for a criminal conviction and certain acts of serious misconduct without regard to conviction. Additionally, the bill will correct misinterpretations and incongruencies to full civil rights enforcement using the Bane Act and bringing it into alignment with federal law.

Law enforcement officers are entrusted with great powers to carry a firearm, stop and search, use force,

and arrest; to balance this, they must be held to a higher standard of accountability.

## SUPPORT

Alliance for Boys and Men of Color (Co-Sponsor)  
ACLU of California (Co-Sponsor)  
Anti-Police-Terror Project (Co-Sponsor)  
Black Lives Matter Los Angeles (Co-Sponsor)  
California Families United 4 Justice (Co-Sponsor)  
Communities United for Restorative Youth Justice (Co-Sponsor)  
PolicyLink (Co-Sponsor)  
STOP Coalition (Co-Sponsor)  
UDW/AFSCME Local 3930 (Co-Sponsor)  
Youth Justice Coalition (Co-Sponsor)  
Consumer Attorneys of CA

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