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CALIFORNIA LAW ENFORCEMENT OFFICERS DESERVE PROTECTION CONSISTENT WITH THEIR OATH OF OFFICE AND THE LABOR CODE

BY: SCOTT A. O'MARA

The California Constitution, Article 20, Sections 1-23, sets forth the Peace Officer Oath of Office which California law enforcement officers must swear and adhere to. This oath, in part, states:

“I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.”

This Oath of Office taken by law enforcement officers, in addition to their training and experience, shows society's recognition that these individuals are front-line people who support and defend the citizens of the United States.

The tragic and unfortunate events which have occurred recently in California and the state of Nevada clearly establish the burden which has been placed on law enforcement officers and their families. Not only have the shootings and other events created tremendous harm to the populace; they also have brought horrendous harm to peace officers and their families.

These law enforcement officers have training and experience which is unique, allowing them to respond professionally and appropriately to contain and control many of the harm doers and potential harm doers. Without the involvement of these officers, the unfortunate reality is that a greater level of harm and disaster would occur in the community at large. The general populace needs to better recognize and appreciate the value of these unique individuals who, in keeping with their oath, use their training and experience to protect all of us. In return, we must ensure that we do what is right to protect and preserve these officers and their families, as highlighted by the recent event in Nevada and one which is ongoing in San Diego. Unfortunately, some

governmental entities have placed a barrier making it difficult for officers and their families to obtain the protection they need and deserve, including accessing appropriate medical treatment and recovering lost wages. The rationale for this barrier is based upon a lack of clarity and a misperception of the Labor Code.

The Labor Code does have some ambiguity, and this ambiguity is used to limit the protection needed for law enforcement officers and their families. The argument is made that the coverage provided by Labor Code §3600.2 applies only in the state of California. This misinterpretation has created a barrier which will require all officers placed in these hazardous situations to recognize that they must consider the impact that it has on their families and themselves if they are not properly protected while engaged in the potential apprehension of actual and suspected law violators. Some government entities recognize this ambiguity and the necessity of allowing their law enforcement officers to respond to extraordinary events based upon their training and experience in compliance with the oath they have taken to “support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic” without limiting themselves to the geographical demarcation of California as opposed to Nevada.

The current position taken by other governmental entities is harmful, not only to the specific officers and their families, but also to the officers of other agencies. The denial of protection to responding officers will cause all officers to second-guess if they should respond to these horrific events. If they respond and are denied protection, it will be destructive to the responding officers and their families. What is needed is for the money-grubbers who are denying coverage to rethink their position and recognize the severe impact on our society which limiting the coverage to law enforcement officers has.

Additional consideration needs to be focused on the Law Enforcement Officers Safety Act (LEOSA), which was signed into law by President George W. Bush on June 22, 2004. This act allows qualified law enforcement officers — both active and retired — to carry concealed weapons in any jurisdiction of the United States, regardless of any state or local laws, with certain exceptions.

The passage of LEOSA again provides greater protection to all members of our society. It constitutes recognition of the training and experience which law enforcement officers have in providing protection to all of us.

Assemblyman Tom Daly of Anaheim will be introducing a bill next year regarding a legislative change that will provide better protection to peace officers in the Workers’ Compensation system. This bill will reinforce the concept that safety members, regardless of whether they are in

California or not, will have access to injury and/or death benefits when engaged in law enforcement activities like the recent shooting incidents.

Assemblyman Daly's legislation acknowledges the importance of the commas used in Labor Code §3600.2, and how they are subject to misinterpretation, making denials of benefits possible by governmental entities which misinterpret this statute. According to my understanding, the changes which would be made by this bill would remove any opportunity for misunderstanding of Labor Code §3600.2.

Abandoning the protection of these individuals is not consistent with the gravity of the oath they have taken, and the proper interpretation of the Labor Code and LEOSA. Therefore, a change in the Labor Code is needed to halt the money-grubbers and remove the dark cloud which now hangs over the primary defenders protecting our society.



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