

AMENDED IN SENATE APRIL 22, 2004

**SENATE BILL**

**No. 1866**

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**Introduced by Senator Aanestad  
(Coauthor: Senator Romero)**

February 20, 2004

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An act to amend Sections 17004 and 17004.7 of, to add Section 1666.1 to, and to add Article 2 (commencing with Section 2830) to Chapter 4 of Division 2 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1866, as amended, Aanestad. Peace officer motor vehicle pursuit.

(1) Under existing law, a public agency employing peace officers that adopts a written policy on vehicular pursuits that complies with specific standards is immune from liability for civil damages for personal injury to, or the death of, any person or damage to property resulting from the collision of a vehicle being operated by an actual or suspected violator of the law who is being, has been, or believes he or she is, or has been, pursued by a peace officer employed by the public entity in a motor vehicle. Existing law makes it a crime for a person while operating a motor vehicle to intentionally evade, willfully flee, or otherwise attempt to evade a pursuing peace officer's motor vehicle under certain conditions.

This bill would continue the described civil immunity if a ~~law enforcement agency, rather than a public agency,~~ *law enforcement agency of a city, county, city and county, special district, or the state* adopts and implements a written policy on motor vehicle pursuits that complies with a comprehensive peace officer pursuit guidelines and practices act established by this bill (*Kristie's Law*), and the peace

officer is immune from civil liability as described under (2). The bill, under that proposed comprehensive act, would, among other things, prohibit a peace officer from pursuing a vehicle under specified circumstances, require a peace officer to engage in certain conduct and procedures involving a motor vehicle pursuit, as defined, and a motor vehicle incident, require a peace officer to discontinue a motor vehicle pursuit under specified circumstances, and establish related procedures governing law enforcement dispatchers and supervisors.

This bill would require all traffic safety programs that are funded by state funds to include a section examining the public safety risks of peace officer motor vehicle pursuits. The bill would also require at least one question on an applicant's driving test to include a question regarding these matters.

This bill would require a law enforcement agency to adopt guidelines and procedures regarding a motor vehicle pursuit by a peace officer that, at a minimum, comply with the requirements of this bill, and, when necessary to achieve public safety, would allow an agency to enhance its guidelines and procedures with respect to a pursuit of a vehicle by a peace officer beyond the requirements of this bill.

(2) Existing law affords civil immunity to a public employee on account of personal injury to or death of any person or damage to property resulting from the operation, in the line of duty, of an authorized emergency vehicle, for among other things, when in the immediate pursuit of an actual or suspected violator of the law.

This bill, instead, would afford that civil immunity on account of personal injury to, or death of a person, or damage to property caused by a collision that occurs as a result of a motor vehicle pursuit, as defined, if that peace officer was acting within the scope of his or her employment and the action taken was not performed in bad faith or in a grossly negligent manner.

(3) Because this bill would increase the level of services required of local law enforcement agencies, this bill would impose a state-mandated local program.

(4) Because existing law makes it a crime to violate and fail to comply with the Vehicle Code, this bill would impose a state-mandated local program by creating new crimes.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund



to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1666.1 is added to the Vehicle Code, to  
2 read:

3 1666.1. The department shall include at least one question in  
4 each test, as administered under Section 12804.9, of an applicant's  
5 knowledge and understanding of this code to verify that the  
6 applicant has an understanding of the risks and punishments  
7 associated with eluding a pursuing peace officer's motor vehicle.

8 SEC. 2. Article 2 (commencing with Section 2830) is added  
9 to Chapter 4 of Division 2 of the Vehicle Code, to read:

10  
11 Article 2. Peace Officer Motor Vehicle Pursuit Guidelines and  
12 Practices  
13

14 2830. This article shall be known, and may be cited as,  
15 Kristie's Law.

16 2831. The Legislature finds and declares all of the following:

17 (a) Motor vehicle pursuits of fleeing suspects present a danger  
18 to the lives of the public and the peace officers and suspects  
19 involved in the pursuits.

20 (b) According to statistics from the National Highway Traffic  
21 Safety Administration, California has consistently higher numbers  
22 for fatalities in crashes involving peace officer pursuits.

23 (c) In 2001, the National Highway Traffic Safety  
24 Administration reported 365 fatalities nationwide as a result of  
25 peace officer pursuits. California had the highest number of  
26 fatalities with 51 deaths, accounting for nearly 15 percent of the



1 nation's crashes. Of those 51 fatalities, 24 were innocent  
2 bystanders. On average, that is one death a week due to peace  
3 officer pursuits, and one innocent death every two weeks.

4 (d) A primary function of all law enforcement agencies is to  
5 protect the public against personal injury, death, or property  
6 damage.

7 (e) Peace officer pursuits involving motor vehicles inherently  
8 present a risk to the public. A responsibility of law enforcement is  
9 to ensure that innocent third parties are reasonably shielded from  
10 any risk emanating from these pursuits. It is also necessary to assist  
11 peace officers in the safe performance of their duties.

12 (f) It is the intention of this article to strictly regulate the  
13 manner in which a peace officer motor vehicle pursuit is initiated,  
14 undertaken, and performed.

15 2832. For the purposes of this article and Section 17004.7, the  
16 following terms are defined, as follows:

17 (a) "Boxing in" is a deliberate offensive tactic by two or more  
18 pursuing motor vehicles to force a pursued vehicle in a specific  
19 direction, or to force the pursued vehicle to stop or reduce speed  
20 accomplished by the pursuing motor vehicles, while moving, ~~the~~  
21 maneuvering into a place in front of, behind, or beside the pursued  
22 vehicle.

23 (b) "Collateral pursuit" is a deliberate offensive tactic by one  
24 or more patrol motor vehicles driving on roads or streets that  
25 parallel the road or street on which the pursued vehicle is traveling.

26 (c) "Imminent peril" means that an immediate injury or loss of  
27 life is about to occur, or is near-at-hand. The peril is certain,  
28 immediate, and impending. The peril is not remote, uncertain, or  
29 contingent. A likelihood of mere possibility of injury or loss of life  
30 is not sufficient to create an imminent peril.

31 (d) "Intercepting" is the activation of emergency lights or  
32 siren, or both, at the discretion of the peace officer to ~~make~~  
33 ~~notification~~ *notify a violator* of a peace officer's motor vehicle  
34 presence and to cause the violator to stop as quickly and safely as  
35 possible.

36 (e) "Overtaking" is the active attempt by a peace officer to  
37 catch up to and stop a traffic violator before there is recognition by  
38 the violator that the peace officer is attempting to stop the violator.



1 (f) “Paralleling” is a deliberative offensive tactic by one or  
2 more patrol motor vehicles to drive alongside the pursued vehicle  
3 that is in motion.

4 (g) “Peace officer” has the same meaning as that term is  
5 defined in Chapter 4.5 (commencing with Section 830) of Title 3  
6 of Part 2 of the Penal Code.

7 (h) “Pursuit” or “motor vehicle pursuit” is an active attempt  
8 by a peace officer while operating a motor vehicle, to apprehend  
9 a suspect who is also operating a motor vehicle, while the suspect  
10 is trying to avoid capture by using high speed driving or other  
11 evasive tactics, including, but not limited to, driving off a highway,  
12 making a sudden or unexpected movement, or driving on the  
13 wrong side of the roadway.

14 (i) “Ramming” is a deliberate act by the driver of a vehicle to  
15 forcibly strike another vehicle in an attempt to stop or disable the  
16 other vehicle.

17 2833. Initiation of a motor vehicle pursuit does not include  
18 intercepting or overtaking. It begins when the violator recognizes  
19 a peace officer is attempting to stop him or her.

20 (a) A peace officer may pursue a vehicle if there is reason to  
21 believe, or if there is a determination that, imminent peril exists.

22 (b) The commission of a traffic infraction alone does not  
23 qualify as imminent peril under subdivision (a).

24 (c) A pursuit that does not qualify under subdivision (a) is  
25 prohibited.

26 2833.1. A peace officer shall not pursue a motor vehicle under  
27 any of the following circumstances:

28 (a) The peace officer is carrying a prisoner or any other person  
29 who is not an authorized ride-along.

30 (b) The peace officer is on a call that should take precedence.

31 (c) A supervisor advises the peace officer not to pursue.

32 (d) The peace officer initiates or participates in the pursuit  
33 without having on an approved forward-facing red light or siren.

34 (e) The pursued vehicle does not represent an imminent peril  
35 from other than the traffic condition being created by the pursued  
36 vehicle as it flees.

37 2833.2. All of the following guidelines apply to a pursuit of  
38 a vehicle by a peace officer:

39 (a) The danger created by the flight of the suspect does not  
40 constitute justification for the pursuit.



1 (b) A peace officer shall continually question whether the  
2 seriousness of the offense committed or being committed justifies  
3 continuation of the pursuit.

4 (c) A peace officer shall consider the need for enhanced safety  
5 in residential or school areas.

6 (d) When approaching an intersection where signal lights or  
7 stop signs control the flow of traffic, a peace officer shall obey the  
8 signal light or stop sign at the intersection until the officer is certain  
9 that all traffic has yielded the right-of-way.

10 2833.3. All of the following apply to a motor vehicle pursuit  
11 incident:

12 (a) A pursuit is limited to no more than two pursuit motor  
13 vehicles, excluding aircraft.

14 (b) A peace officer operating a motorcycle who initiates a  
15 pursuit shall withdraw when a peace officer's motor vehicle  
16 described in subdivision (a) of Section 2800.1 has joined the  
17 pursuit. A peace officer operating a motorcycle who is relieved  
18 from the pursuit shall not proceed to the termination point of the  
19 pursuit, unless directed to do so by a supervisor.

20 (c) A peace officer in another motor vehicle that is not one of  
21 the two immediate pursuit motor vehicles shall stay clear of the  
22 pursuit. If authorized by a supervisor, a peace officer in another  
23 motor vehicle may trail at the posted speed limits while observing  
24 all traffic laws.

25 (d) Collateral pursuits are permitted only under the  
26 authorization of a supervisor and the peace officer shall obey all  
27 traffic laws.

28 (e) A peace officer in support of a pursuit shall obey all traffic  
29 laws while proceeding to strategic positions.

30 (f) If a person is injured or injuries are suspected or likely as a  
31 result of a collision, the primary pursuit peace officer or supervisor  
32 shall identify all officers present and document their involvement.

33 2833.4. During a motor vehicle pursuit, a peace officer shall  
34 comply with all of the following procedures:

35 (a) The peace officer initiating the pursuit shall immediately  
36 notify the dispatcher that the officer is in a motor vehicle pursuit,  
37 and report the following information:

38 (1) Known violation or reason for the pursuit.

39 (2) Description of the pursued vehicle.

40 (3) Location and direction of travel of the pursued vehicle.



- 1 (4) Speed of the pursued vehicle.  
2 (5) Number of known occupants in the pursued vehicle.  
3 (6) Type of weapons in the pursued vehicle, if known.  
4 (b) Each peace officer in a pursuit is accountable for the  
5 operation of his or her motor vehicle.  
6 (c) A peace officer joining an ongoing pursuit shall  
7 immediately notify the dispatcher that there are two peace officer  
8 motor vehicles involved in the pursuit.  
9 (d) A peace officer shall receive authorization for participation  
10 in an ongoing pursuit. Authorization is never to be presumed.  
11 Authorization to join a pursuit requires an explicit verbal  
12 authorization by the supervisor via the motor vehicle radio.  
13 (e) Maximum use of any law enforcement aircraft shall be  
14 made as quickly as possible.  
15 (f) A peace officer involved in a pursuit shall not discharge his  
16 or her firearm while either the pursued vehicle or pursuit motor  
17 vehicle is in motion.  
18 (g) A peace officer shall not attempt to stop a pursued vehicle  
19 by boxing in, ramming, or heading off, nor driving parallel to the  
20 pursued vehicle. A supervisor may authorize these actions, if, in  
21 his or her opinion, the action would bring about the successful  
22 termination of the pursuit and lessen the peace officer's, suspect's,  
23 or public's exposure to imminent peril.  
24 (h) A peace officer shall not attempt to form a road block by  
25 slowing traffic in front of the pursued vehicle.  
26 2834. A peace officer shall discontinue a motor vehicle  
27 pursuit under the following circumstances:  
28 (a) There is a clear danger to the public or to the pursuing peace  
29 officer when taking into consideration all of the following factors:  
30 (1) The seriousness of the original offense and its relationship  
31 to the continued risk to the public, peace officer, or the fleeing  
32 person.  
33 (2) The safety of the public in the area of the pursuit.  
34 (3) The volume of vehicle and pedestrian traffic.  
35 (4) The quality of road and weather conditions, speed of other  
36 vehicles, time of day, and location.  
37 (5) The quality of radio communications and capabilities of the  
38 law enforcement motor vehicles involved.





1 (b) The peace officer is unable to see the pursued vehicle or the  
2 distance between the pursued vehicle and the pursuing motor  
3 vehicle is so great that further pursuit is futile.

4 (c) The suspect is identified and may be apprehended at a later  
5 time.

6 (d) The supervisor directs the peace officer to terminate the  
7 pursuit. The termination of the pursuit does not prohibit the peace  
8 officer from continuing to follow the pursued vehicle while  
9 observing all traffic laws.

10 2835. (a) A law enforcement dispatcher shall immediately  
11 notify a supervisor of a peace officer's motor vehicle pursuit. The  
12 supervisor shall assume command of the pursuit, including, if  
13 applicable, the termination of a pursuit.

14 (b) In allowing a pursuit to continue, a supervisor shall  
15 carefully consider the seriousness of the offense committed or  
16 being committed, the danger presented to a peace officer and the  
17 public, prevailing traffic conditions, pedestrian traffic, speed of  
18 the vehicles involved, and other relevant factors.

19 (c) A supervisor may allow a pursuit to continue only after the  
20 risks created by the pursuit have been carefully weighed against  
21 the need to continue the pursuit.

22 (d) A supervisor shall complete a pursuit critique and a pursuit  
23 report form (California Highway Patrol Form No. 187), as  
24 required by Section 14602.1.

25 (e) A supervisor shall complete a written review and analysis  
26 of a pursuit within 15 days of the pursuit, which shall be made  
27 public at that time.

28 (f) All reviews and analyses of pursuits shall be examined for  
29 subject matter of benefit in training personnel for future  
30 operations. A supervisor's review shall minimally answer the  
31 following questions in narrative form:

32 (1) What was the reason for the pursuit?

33 (2) What were the conditions of the pursuit, for example, traffic  
34 conditions, time of day, vehicle speeds, number of peace officers  
35 involved, and number of law enforcement motor vehicles  
36 involved?

37 (3) During the pursuit, did the action of the involved peace  
38 officer conform to established written policy as described in  
39 Section 17004.7?





1 (4) Were there any exceptions to the written policy? If so, what  
2 were they and why did they occur?

3 (5) Was any action taken against the pursued vehicle, for  
4 example, ramming or roadblock?

5 (6) If personnel or motor vehicles from other law enforcement  
6 agencies assisted in the pursuit, how many personnel and motor  
7 vehicles from those agencies responded? What role did the  
8 assisting agencies have in the pursuit?

9 (7) Were there any violations of the law?

10 2836. All traffic safety programs that use state funds shall  
11 include a section that examines the public safety risks of peace  
12 officer motor vehicle pursuits, and the punishment that results  
13 from evading a peace officer.

14 2837. (a) A law enforcement agency shall adopt guidelines  
15 and procedures regarding a motor vehicle pursuit by a peace  
16 officer that, at a minimum, comply with this article.

17 (b) When necessary to achieve public safety, a law enforcement  
18 agency may enhance its guidelines and procedures with respect to  
19 a pursuit of a motor vehicle by a peace officer beyond the  
20 requirements of this article.

21 SEC. 3. Section 17004 of the Vehicle Code is amended to  
22 read:

23 17004. A public employee is not liable for civil damages on  
24 account of personal injury to or death of any person or damage to  
25 property resulting from the operation, in the line of duty, of an  
26 authorized emergency vehicle while responding to an emergency  
27 call , or when responding to, but not upon returning from, a fire  
28 alarm or other emergency call.

29 SEC. 4. Section 17004.7 of the Vehicle Code is amended to  
30 read:

31 17004.7. (a) The immunity provided by this section is in  
32 addition to any other immunity provided by law.

33 (b) A peace officer is not liable for any personal injury to, or  
34 death of, a person, or damage to property caused by a collision that  
35 occurs as a result of a motor vehicle pursuit if that peace officer was  
36 acting within the scope of his or her employment, and the action  
37 taken was not performed in bad faith or in a grossly negligent  
38 manner. *The failure to strictly adhere to all provisions of a written*  
39 *policy, adopted as provided in subdivision (c), is not, in and of*  
40 *itself, evidence of bad faith.*



1 (c) A ~~law enforcement agency that~~ *city, county, city and county,*  
 2 *special district, or state agency whose law enforcement agency*  
 3 *adopts and implements a written policy on motor vehicle pursuits*  
 4 *in accordance with Article 2 (commencing with Section 2830) of*  
 5 *Chapter 4 of Division 2 is immune from liability for civil damages*  
 6 *for personal injury to, or death of, a person or damage to property*  
 7 *resulting from a collision if the pursuit was initiated, engaged in,*  
 8 *or terminated by a peace officer acting within the scope of his or*  
 9 *her employment and who adhered to the guidelines established in*  
 10 *Article 2 (commencing with Section 2830) of Chapter 4 of*  
 11 *Division 2.*

12 (d) A determination of whether a written policy described  
 13 under subdivision (c) complies with the guidelines and procedures  
 14 established under Article 2 (commencing with Section 2830) of  
 15 Chapter 4 of Division 2 is a question of law.

16 (e) A term used in this section has the same meaning as that  
 17 term is defined in Section 2832.

18 SEC. 5. No reimbursement is required by this act pursuant to  
 19 Section 6 of Article XIII B of the California Constitution for  
 20 certain costs that may be incurred by a local agency or school  
 21 district because in that regard this act creates a new crime or  
 22 infraction, eliminates a crime or infraction, or changes the penalty  
 23 for a crime or infraction, within the meaning of Section 17556 of  
 24 the Government Code, or changes the definition of a crime within  
 25 the meaning of Section 6 of Article XIII B of the California  
 26 Constitution.

27 However, notwithstanding Section 17610 of the Government  
 28 Code, if the Commission on State Mandates determines that this  
 29 act contains other costs mandated by the state, reimbursement to  
 30 local agencies and school districts for those costs shall be made  
 31 pursuant to Part 7 (commencing with Section 17500) of Division  
 32 4 of Title 2 of the Government Code. If the statewide cost of the  
 33 claim for reimbursement does not exceed one million dollars  
 34 (\$1,000,000), reimbursement shall be made from the State  
 35 Mandates Claims Fund.

