

HOUSE BILL REPORT

HB 1123

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to certification of peace officers.

Brief Description: Addressing certification of peace officers.

Sponsors: Representatives O'Brien, Delvin, Ballasiotes, Sheahan, Lovick, Constantine, Lantz, Conway, McDonald, Stensen and Hurst.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/26/99, 2/3/99 [DPS].

Brief Summary of Substitute Bill

- Requires all Washington peace officers to timely obtain and retain basic certification as peace officers.
- Establishes a five-member hearings board to both hear cases and make final administrative decisions regarding a law enforcement officer's certification.
- Requires the Board on Law Enforcement Training Standards and Education to evaluate and make recommendations regarding the possible expansion of the certification and decertification process.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; Chandler; Constantine; Kagi and Koster.

Staff: Yvonne Walker (786-7841).

Background:

Law enforcement officers initially hired must complete basic training during the first six months of their employment unless his or her basic training requirement has been waived or extended by the Criminal Justice Training Commission. Successful completion of the basic training requirement is a prerequisite to the continuation of employment of new officers with a law enforcement agency.

Basic law enforcement certification (i.e., a probation period or field training) is not always required of new peace officers or even old peace officers who have left full-time service and returned. Each local law enforcement agency acts independently and there is no statewide system that mandates that all officers obtain (and retain) certification as a peace officer.

Summary of Substitute Bill:

As a condition of continuing employment as peace officers, all Washington peace officers must timely obtain and retain basic certification as peace officers.

As a prerequisite to basic law enforcement certification, a new peace officer must successfully complete a continuous 18-month period of qualification with a single employer following the date the peace officer is sworn into office as a peace officer. During the period of qualification, the peace officer must successfully complete the employer's probation period and the employer's field training program.

As a prerequisite to certification, a peace officer applying for certification must sign a perpetual release to the commission to authorize the release of all personnel files, termination papers, criminal investigation files, or any other files, papers, or information that the commission requires.

A peace officer's certification may be denied or revoked if the officer has:

- failed to timely meet all requirements for obtaining a certificate of basic law enforcement training, or an authorized exemption from the training (certification lapses when there is a break of more than 24 consecutive months in the officer's service as a full-time law enforcement officer);
- knowingly falsified or omitted information on his training or certification application;
- been convicted of a felony;
- been discharged for misconduct;
- obtained a certificate which was previously issued by administrative error on the part of the commission;
- failed, without good cause, to cooperate with the commission by: (a) not furnishing necessary documents requested by the commission; (b) not furnishing in writing, on request of the commission, a complete explanation covering the matter before the commission; or (c) not responding to a subpoena issued by the commission; or

- interfered with an investigation or action for denial or revocation of a certificate by knowingly making a false statement to the commission or tampering with evidence or intimidating any witness.

A person denied certification based upon dismissal or withdrawal from a basic law enforcement academy for any reason, except discharge for disqualifying misconduct, may reapply for readmission for certification. A person denied certification for disqualifying misconduct may, five years after the revocation or denial, petition the commission for reinstatement of the certificate. A person whose certification is denied or revoked due to a felony criminal conviction is not eligible for certification (or re-certification) at any time, however, he may petition the commission for reinstatement immediately upon a final judicial reversal of the conviction.

Any law enforcement officer or duly authorized representative of a law enforcement agency may submit a written complaint to the commission charging that a peace officer's certificate should be denied or revoked, and specifying the grounds for the charge. A person who files a complaint in good faith is immune from suit or any civil action related to the filing or the contents of the complaint.

Within 15 days of any termination or resignation of any peace officer, the agency of termination must notify the commission and upon the request of the commission, provide any additional personnel documentation.

The officer must, within 60 days of communication of the statement of charges, request a hearing before the hearings board. If a hearing is requested, the date of the hearing must be scheduled not earlier than 90 days after communication of the charges to the officer. The commission must give written notice of the hearing at least 20 days prior to the hearing, specifying the time, date, and place of hearing.

A five-member hearings board must both hear the case and make the commission's final administrative decision. The board will consist of a police chief and a sheriff appointed by the commission, two police officers chosen by the Washington Council of Police Officers, and one representative from either the community colleges or the 4-year colleges and universities. When the appeal is filed in relation to employment as a peace officer of the Washington State Patrol, the police chief member of the hearings board must be replaced by an administrator of the state patrol, and one of the officer members of the hearings board must be replaced by a member of the Washington State Patrol Troopers Association.

The commission, its boards, and individuals acting on behalf of the commission and its boards are immune from suit in any civil or criminal action performed in the course of their duties.

All records of the commission are confidential and exempt from public disclosure, except by the officer involved or the officer's counsel or authorized representative, who may review the officer's file and may submit any additional evidence, statements, or other information. Other law enforcement agencies may review records for hiring purposes within their own agencies. The hearings, but not the deliberations of the hearings board, are open to the public.

Upon a determination that a complaint is without merit, the commission shall purge records.

The commission has the authority to:

- adopt, amend, or repeal rules as necessary;
- issue subpoenas and administer oaths in connection with investigations and hearings;
- take depositions and other procedures as needed in investigations and hearings;
- appoint members of a hearings board;
- designate individuals authorized to sign subpoenas and statements of charges; and
- hire investigative, administrative, and clerical staff or enter into contracts for professional services necessary to carry out its duties.

The commission shall direct the Board on Law Enforcement Training Standards and Education to assemble a study group to evaluate and make recommendations, July 1, 2000, regarding the possible expansion of the certification and decertification provisions. The commission must consider the recommendations, modify them if it deems appropriate, and prepare a final report by January 1, 2001.

This act is null and void if an appropriation is not included in the budget.

Substitute Bill Compared to Original Bill:

Upon the determination that a complaint against a law enforcement officer is without merit, the Criminal Justice Training Commission "must," instead of "may," purge all records relating to that case.

Appropriation: None.

Fiscal Note: Requested on January 19, 1999.

Effective Date of Substitute Bill: The bill contains several effective dates. Please refer to the bill. However, the bill is null and void unless funded in the budget.

Testimony For: (Original bill) Washington is one of a few states in the United States that does not have a statewide certification process for peace officers. As a result,

several bad officers who were terminated or forced to resign from one agency were able to find employment again in other smaller local law enforcement agencies. Agencies will now be able to verify an applicant's personnel file, termination papers, criminal investigation files, and any other information that may be necessary in making a hiring decision of an officer that has applied for an employment position within their agency. This bill will take officers that are unworthy to be peace officers off the street.

Testimony Against: None.

Testified: (In support) Joe Mathews, Washington Association of Sheriffs and Police Chiefs; Mike Kline, Washington Association of Sheriffs and Police Chiefs; Greg Lineberry, Washington Council of Police; Michael Parsons, Training Commission; Mike Hawley, Washington Association of Sheriffs and Police Chiefs; Larry Taylor, Washington Association of Sheriffs and Police Chiefs; Mike Patrick, Washington Association of Sheriffs and Police Chiefs; Bill Hanson, Washington State Patrol Troopers Association; and Annette Sandberg, Washington State Patrol.

(In support with concerns) Michael Transue, King County Police Officer.