

SENATE BILL REPORT

HB 1062

As Reported By Senate Committee On:
Judiciary, March 26, 2001
Ways & Means, April 2, 2001

Title: An act relating to certification of peace officers.

Brief Description: Modifying provisions pertaining to the certification of peace officers.

Sponsors: By Representatives O'Brien, Ballasiotes, Delvin, Lovick and Haigh; by request of Criminal Justice Training Commission.

Brief History:

Committee Activity: Judiciary: 3/20/01, 3/26/01 [DPA].

Ways & Means: 4/2/01 [DPA (JUD)].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Johnson, Long, Thibaudeau and Zarelli.

Staff: Lilah Amos (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Judiciary.

Signed by Senators Brown, Chair; Constantine, Vice Chair; Fairley, Vice Chair; Fraser, Hewitt, Honeyford, Kline, Kohl-Welles, Long, Parlette, Rasmussen, Regala, Roach, Rossi, Sheahan, B. Sheldon, Snyder, Spanel, Thibaudeau, Winsley and Zarelli.

Staff: Bryon Moore (786-7726)

Background: All police officers must successfully complete a basic law enforcement training course provided or approved by the Criminal Justice Training Commission within the first six months of employment, absent an extension or waiver. Successful completion of this training requirement is a prerequisite to continued employment in law enforcement. There is presently no additional requirement that police officers maintain certification by a state agency in order to be eligible for continuing employment as a police officer, nor has any state agency been given the authority to revoke a police officer's certification if the officer has committed misconduct.

Summary of Amended Bill: All peace officers must obtain and maintain certification as a condition of continuing employment. The Criminal Justice Training Commission is given authority to certify officers, to investigate complaints against officers, and to file charges

against an officer if the commission finds probable cause to believe that certification should be revoked. If a hearing is requested by the officer, the commission must appoint a five-member panel to determine if decertification should occur. The standard of proof is clear, cogent, and convincing evidence.

The commission may deny or revoke certification if an officer:

- (1) is discharged by an employer for disqualifying misconduct;
- (2) has interfered with an investigation by making a materially false statement to the commission or by tampering with evidence or witnesses or intimidated witnesses;
- (3) is convicted at any time of a felony, subject to the limitation that if an officer was convicted of a felony prior to being hired and fully disclosed the crime to the employer, certification could be revoked only with the approval of the employing agency;
- (4) has knowingly falsified or omitted material information on an application;
- (5) has failed to meet training requirements; or
- (6) was issued a certification due to administrative error of the commission.

"Discharged for disqualifying misconduct" means being terminated from employment for:

- (1) conviction of a crime:
 - (a) involving dishonesty or false statement;
 - (b) committed under color of authority as a police officer;
 - (c) involving unlawful use or possession of a controlled substance; or
 - (d) which disqualifies a Washington citizen from possessing a firearm;
- (2) conduct which would constitute the above crimes; or
- (3) knowingly making materially false statements during disciplinary investigations.

Resignation in anticipation of discipline is a basis for decertification. Investigative files of the commission are confidential and exempt from public disclosure, and must be purged if the complaint is found to be without merit. Hearings of the panel are open to the public. If a decertification proceeding is based upon discharge for disqualifying misconduct, the panel may base its decision upon a review of the records of the employment separation proceeding, or may decide to consider additional evidence. The panel's decision is subject to judicial review.

Persons filing a complaint against an individual, and members of the commission and anyone acting on its behalf, are immune from liability for acts taken in the course of their duties regarding decertification. Anyone providing information to the commission in good faith is immune from civil liability. As a condition of certification, a peace officer must authorize release of personnel files and termination documents to the commission.

An officer may petition for reinstatement five years after denial or revocation of certification. If the decertification is based upon a felony conviction, recertification is prohibited unless the conviction is reversed on appeal. An employing law enforcement agency must notify the commission of termination or resignation of peace officers within 15 days.

Amended Bill Compared to Original Bill: The certification of a peace officer with a prior felony conviction, which was fully disclosed to an employing law enforcement agency before hiring, may be revoked only if the employing law enforcement agency agrees.

Appropriation: None.

Fiscal Note: Available.

Effective Date: January 1, 2002.

Testimony For: Washington is one of two western states which does not have a certification program. It is important that persons who should not be peace officers are not employed in Washington. If their misconduct has caused them to be fired by any law enforcement agency, other agencies should have this information. A certification program covering all of Washington ensures transmittal of this information and provides a procedure for monitoring officers and removal of those who are not qualified to serve.

Testimony Against: None.

Testified: Representative O'Brien; Michael Parsons, Criminal Justice Training Commission; Larry Erickson, Washington Association of Sheriffs and Police Chiefs; Bill Hanson, WACOPS.