
SUBSTITUTE HOUSE BILL 2322

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives McDonald, Delvin, Kristiansen, Pearson, Lovick and Shabro)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to requiring prehire screening for law enforcement
2 applicants; amending RCW 43.101.080, 43.101.095, 43.101.105, and
3 43.43.020; and adding a new section to chapter 43.101 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 43.101.080 and 2001 c 166 s 1 are each amended to read
6 as follows:

7 The commission shall have all of the following powers:

- 8 (1) To meet at such times and places as it may deem proper;
- 9 (2) To adopt any rules and regulations as it may deem necessary;
- 10 (3) To contract for services as it deems necessary in order to
11 carry out its duties and responsibilities;
- 12 (4) To cooperate with and secure the cooperation of any department,
13 agency, or instrumentality in state, county, and city government, and
14 other commissions affected by or concerned with the business of the
15 commission;
- 16 (5) To do any and all things necessary or convenient to enable it
17 fully and adequately to perform its duties and to exercise the power
18 granted to it;

1 (6) To select and employ an executive director, and to empower him
2 to perform such duties and responsibilities as it may deem necessary;

3 (7) To assume legal, fiscal, and program responsibility for all
4 training conducted by the commission;

5 (8) To establish, by rule and regulation, standards for the
6 training of criminal justice personnel where such standards are not
7 prescribed by statute;

8 (9) To own, establish, and operate, or to contract with other
9 qualified institutions or organizations for the operation of, training
10 and education programs for criminal justice personnel and to purchase,
11 lease, or otherwise acquire, subject to the approval of the department
12 of general administration, a training facility or facilities necessary
13 to the conducting of such programs;

14 (10) To establish, by rule and regulation, minimum curriculum
15 standards for all training programs conducted for employed criminal
16 justice personnel;

17 (11) To review and approve or reject standards for instructors of
18 training programs for criminal justice personnel, and to employ
19 personnel on a temporary basis as instructors without any loss of
20 employee benefits to those instructors;

21 (12) To direct the development of alternative, innovate, and
22 interdisciplinary training techniques;

23 (13) To review and approve or reject training programs conducted
24 for criminal justice personnel and rules establishing and prescribing
25 minimum training and education standards recommended by the training
26 standards and education boards;

27 (14) To allocate financial resources among training and education
28 programs conducted by the commission;

29 (15) To allocate training facility space among training and
30 education programs conducted by the commission;

31 (16) To issue diplomas certifying satisfactory completion of any
32 training or education program conducted or approved by the commission
33 to any person so completing such a program;

34 (17) To provide for the employment of such personnel as may be
35 practical to serve as temporary replacements for any person engaged in
36 a basic training program as defined by the commission;

37 (18) To establish rules and regulations recommended by the training
38 standards and education boards prescribing minimum standards relating

1 to physical, mental and moral fitness which shall govern the
2 recruitment of criminal justice personnel where such standards are not
3 prescribed by statute or constitutional provision;

4 (19) To require that each applicant that has been offered a
5 conditional offer of employment as a full-time or part-time
6 commissioned peace officer or a reserve officer that has had a break of
7 more than twenty-four consecutive months in the officer's service as a
8 full-time law enforcement officer to take and successfully pass a
9 psychological examination and a polygraph test as administered by the
10 commission as a condition of employment as a peace officer. The
11 commission may require that each applicant who is required to take a
12 psychological examination and a polygraph test pay a portion of the
13 testing fee based on the actual cost of the test or four hundred
14 dollars, whichever is less. The commission may establish a payment
15 plan if it determines that the peace officer does not readily have the
16 means to pay for his or her portion of the testing fee.

17 All rules and regulations adopted by the commission shall be
18 adopted and administered pursuant to the administrative procedure act,
19 chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.

20 **Sec. 2.** RCW 43.101.095 and 2001 c 167 s 2 are each amended to read
21 as follows:

22 (1) As a condition of continuing employment as peace officers, all
23 Washington peace officers: (a) Shall timely obtain certification as
24 peace officers, or timely obtain certification or exemption therefrom,
25 by meeting all requirements of RCW 43.101.200, as that section is
26 administered under the rules of the commission, as well by meeting any
27 additional requirements under this chapter; ~~((and))~~ (b) shall maintain
28 the basic certification as peace officers under this chapter; and (c)
29 shall successfully pass a psychological examination and a polygraph
30 test as administered by the commission if the officer is an applicant
31 that has been offered a conditional offer of employment as a full-time
32 or part-time commissioned peace officer or a reserve officer that has
33 had a break of more than twenty-four consecutive months in the
34 officer's service as a full-time law enforcement officer. The
35 commission shall certify peace officers who have satisfied, or have
36 been exempted by statute or by rule from, the basic training

1 requirements of RCW 43.101.200 on or before January 1, 2002.
2 Thereafter, the commission may revoke certification pursuant to this
3 chapter.

4 (2) The commission shall allow a peace officer to retain status as
5 a certified peace officer as long as the officer: (a) Timely meets the
6 basic law enforcement training requirements, or is exempted therefrom,
7 in whole or in part, under RCW 43.101.200 or under rule of the
8 commission; (b) meets or is exempted from any other requirements under
9 this chapter as administered under the rules adopted by the commission;
10 (c) is not denied certification by the commission under this chapter;
11 and (d) has not had certification revoked by the commission.

12 (3) As a prerequisite to certification, as well as a prerequisite
13 to pursuit of a hearing under RCW 43.101.155, a peace officer must, on
14 a form devised or adopted by the commission, authorize the release to
15 the commission of his or her personnel files, termination papers,
16 criminal investigation files, or other files, papers, or information
17 that are directly related to a certification matter or decertification
18 matter before the commission.

19 **Sec. 3.** RCW 43.101.105 and 2001 c 167 s 3 are each amended to read
20 as follows:

21 (1) Upon request by a peace officer's employer or on its own
22 initiative, the commission may deny or revoke certification of any
23 peace officer, after written notice and hearing, if a hearing is timely
24 requested by the peace officer under RCW 43.101.155, based upon a
25 finding of one or more of the following conditions:

26 ~~((1))~~ (a) The peace officer has failed to timely meet all
27 requirements for obtaining a certificate of basic law enforcement
28 training, a certificate of basic law enforcement training equivalency,
29 or a certificate of exemption from the training;

30 ~~((2))~~ (b) The peace officer has knowingly falsified or omitted
31 material information on an application for training or certification to
32 the commission;

33 ~~((3))~~ (c) The peace officer has been convicted at any time of a
34 felony offense under the laws of this state or has been convicted of a
35 federal or out-of-state offense comparable to a felony under the laws
36 of this state; except that if a certified peace officer was convicted
37 of a felony before being employed as a peace officer, and the

1 circumstances of the prior felony conviction were fully disclosed to
2 his or her employer before being hired, the commission may revoke
3 certification only with the agreement of the employing law enforcement
4 agency;

5 ~~((4))~~ (d) The peace officer has been discharged for disqualifying
6 misconduct, the discharge is final, and some or all of the acts or
7 omissions forming the basis for the discharge proceedings occurred on
8 or after January 1, 2002;

9 ~~((5))~~ (e) The peace officer's certificate was previously issued
10 by administrative error on the part of the commission; or

11 ~~((6))~~ (f) The peace officer has interfered with an investigation
12 or action for denial or revocation of certificate by: ~~((a))~~ (i)
13 Knowingly making a materially false statement to the commission; or
14 ~~((b))~~ (ii) in any matter under investigation by or otherwise before
15 the commission, tampering with evidence or tampering with or
16 intimidating any witness.

17 (2) The commission shall deny certification of any applicant that
18 has been offered a conditional offer of employment as a full-time or
19 part-time commissioned peace officer or a reserve officer that has had
20 a break of more than twenty-four consecutive months in the officer's
21 service as a full-time law enforcement officer, if that applicant
22 failed to successfully pass the psychological examination, the
23 polygraph test, or both, as administered by the commission.

24 NEW SECTION. Sec. 4. A new section is added to chapter 43.101 RCW
25 to read as follows:

26 Before a person may be appointed or hired to act as a peace
27 officer, the person shall meet the minimum standards for employment
28 with the hiring local law enforcement agency, including: (1)
29 Successful completion of a psychological examination and polygraph
30 examination administered by the criminal justice training commission;
31 and (2) obtaining a certificate of basic law enforcement training or a
32 certificate of basic law enforcement training equivalency.

33 **Sec. 5.** RCW 43.43.020 and 1983 c 144 s 1 are each amended to read
34 as follows:

35 The governor, with the advice and consent of the senate, shall

1 appoint the chief of the Washington state patrol, determine his
2 compensation, and may remove him at will.

3 The chief shall appoint a sufficient number of competent persons to
4 act as Washington state patrol officers, may remove them for cause, as
5 provided in this chapter, and shall make promotional appointments,
6 determine their compensation, and define their rank and duties, as
7 hereinafter provided. Before a person may be appointed to act as a
8 Washington state patrol officer, the person shall meet the minimum
9 standards for employment with the Washington state patrol, including
10 successful completion of a psychological examination and polygraph
11 examination administered by the chief or his or her designee.

12 The chief may appoint employees of the Washington state patrol to
13 serve as special deputies, with such restricted police authority as the
14 chief shall designate as being necessary and consistent with their
15 assignment to duty. Such appointment and conferral of authority shall
16 not qualify said employees for membership in the Washington state
17 patrol retirement system, nor shall it grant tenure of office as a
18 regular officer of the Washington state patrol.

19 The chief may personally appoint, with the consent of the state
20 treasurer, employees of the office of the state treasurer who are
21 qualified under the standards of the criminal justice training
22 commission, or who have comparable training and experience, to serve as
23 special deputies. The law enforcement powers of any special deputies
24 appointed in the office of the state treasurer shall be designated by
25 the chief and shall be restricted to those powers necessary to provide
26 for statewide security of the holdings or property of or under the
27 custody of the office of the state treasurer. These appointments may
28 be revoked by the chief at any time and shall be revoked upon the
29 written request of the state treasurer or by operation of law upon
30 termination of the special deputy's employment with the office of the
31 state treasurer or thirty days after the chief who made the appointment
32 leaves office. The chief shall be civilly immune for the acts of such
33 special deputies. Such appointment and conferral of authority shall
34 not qualify such employees for membership in the Washington state
35 patrol retirement system, nor shall it grant tenure of office as a
36 regular officer of the Washington state patrol.

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