

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5156**

61st Legislature  
2009 Regular Session

Passed by the Senate February 26, 2009  
YEAS 45 NAYS 0

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**President of the Senate**

Passed by the House March 30, 2009  
YEAS 97 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5156** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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SENATE BILL 5156

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Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By Senators Brandland, McCaslin, and Keiser; by request of Criminal Justice Training Commission

Read first time 01/15/09. Referred to Committee on Judiciary.

1 AN ACT Relating to certification actions of Washington peace  
2 officers; and amending RCW 43.101.380.

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

4 **Sec. 1.** RCW 43.101.380 and 2006 c 22 s 3 are each amended to read  
5 as follows:

6 (1) The procedures governing adjudicative proceedings before  
7 agencies under chapter 34.05 RCW, the administrative procedure act,  
8 govern hearings before the commission and govern all other actions  
9 before the commission unless otherwise provided in this chapter. The  
10 standard of proof in actions before the commission is clear, cogent,  
11 and convincing evidence.

12 (2) In all hearings requested under RCW 43.101.155, a five-member  
13 hearings panel shall both hear the case and make the commission's final  
14 administrative decision. Members of the commission or the board on law  
15 enforcement training standards and education may, but need not be,  
16 appointed to the hearings panels. The commission shall appoint as  
17 follows two or more panels to hear appeals from (~~decertification~~)  
18 certification actions:

1 (a) When a hearing is requested in relation to (~~decertification~~)  
2 a certification action of a Washington peace officer who is not a peace  
3 officer of the Washington state patrol, the commission shall appoint to  
4 the panel: (i) One police chief; (ii) one sheriff; (iii) two certified  
5 Washington peace officers who are at or below the level of first line  
6 supervisor, (~~who are~~) one of whom is from a city or county law  
7 enforcement (~~agencies~~) agency, and who have at least ten years'  
8 experience as peace officers; and (iv) one person who is not currently  
9 a peace officer and who represents a community college or four-year  
10 college or university.

11 (b) When a hearing is requested in relation to (~~decertification~~)  
12 a certification action of a peace officer of the Washington state  
13 patrol, the commission shall appoint to the panel: (i) Either one  
14 police chief or one sheriff; (ii) one administrator of the state  
15 patrol; (iii) one certified Washington peace officer who is at or below  
16 the level of first line supervisor, who is (~~from a city or county law~~  
17 ~~enforcement agency~~) not a state patrol officer, and who has at least  
18 ten years' experience as a peace officer; (iv) one state patrol officer  
19 who is at or below the level of first line supervisor, and who has at  
20 least ten years' experience as a peace officer; and (v) one person who  
21 is not currently a peace officer and who represents a community college  
22 or four-year college or university.

23 (c) When a hearing is requested in relation to (~~decertification~~)  
24 a certification action of a tribal police officer, the commission shall  
25 appoint to the panel (i) either one police chief or one sheriff; (ii)  
26 one tribal police chief; (iii) one certified Washington peace officer  
27 who is at or below the level of first line supervisor, (~~who is from a~~  
28 ~~city or county law enforcement agency,~~) and who has at least ten  
29 years' experience as a peace officer; (iv) one tribal police officer  
30 who is at or below the level of first line supervisor, and who has at  
31 least ten years' experience as a peace officer; and (v) one person who  
32 is not currently a peace officer and who represents a community college  
33 or four-year college or university.

34 (d) Persons appointed to hearings panels by the commission shall,  
35 in relation to any (~~decertification matter~~) certification action on  
36 which they sit, have the powers, duties, and immunities, and are  
37 entitled to the emoluments, including travel expenses in accordance  
38 with RCW 43.03.050 and 43.03.060, of regular commission members.

1           (3) Where the charge upon which revocation or denial is based is  
2 that a peace officer was "discharged for disqualifying misconduct," and  
3 the discharge is "final," within the meaning of RCW 43.101.105(1)(d),  
4 and the officer received a civil service hearing or arbitration hearing  
5 culminating in an affirming decision following separation from service  
6 by the employer, the hearings panel may revoke or deny certification if  
7 the hearings panel determines that the discharge occurred and was based  
8 on disqualifying misconduct; the hearings panel need not redetermine  
9 the underlying facts but may make this determination based solely on  
10 review of the records and decision relating to the employment  
11 separation proceeding. However, the hearings panel may, in its  
12 discretion, consider additional evidence to determine whether such a  
13 discharge occurred and was based on such disqualifying misconduct. The  
14 hearings panel shall, upon written request by the subject peace  
15 officer, allow the peace officer to present additional evidence of  
16 extenuating circumstances.

17           Where the charge upon which revocation or denial of certification  
18 is based is that a peace officer "has been convicted at any time of a  
19 felony offense" within the meaning of RCW 43.101.105(1)(c), the  
20 hearings panel shall revoke or deny certification if it determines that  
21 the peace officer was convicted of a felony. The hearings panel need  
22 not redetermine the underlying facts but may make this determination  
23 based solely on review of the records and decision relating to the  
24 criminal proceeding. However, the hearings panel shall, upon the  
25 panel's determination of relevancy, consider additional evidence to  
26 determine whether the peace officer was convicted of a felony.

27           Where the charge upon which revocation or denial is based is under  
28 RCW 43.101.105(1) (a), (b), (e), or (f), the hearings panel shall  
29 determine the underlying facts relating to the charge upon which  
30 revocation or denial of certification is based.

31           (4) The commission's final administrative decision is subject to  
32 judicial review under RCW 34.05.510 through 34.05.598.

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