

SENATE BILL REPORT

SB 6218

As of January 24, 2014

Title: An act relating to peace officer certification.

Brief Description: Modifying peace officer certification provisions.

Sponsors: Senators Padden, Kline, Rivers and Darneille.

Brief History:

Committee Activity: Law & Justice: 1/24/14.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Kelly Walsh (786-7755)

Background: The Washington State Criminal Justice Training Commission provides programs and standards for the training of criminal justice personnel. Law enforcement personnel initially employed after January 1, 1978, must engage in basic law enforcement training in compliance with the standards adopted by the commission. Law enforcement subject to this requirement must complete basic training within a specified period of time after initial employment. Successful completion of basic training is required for continued employment. If a specific finding is made regarding the conduct of a peace officer, the commission can deny or revoke a peace officer's certification. In general, a peace officer is any law enforcement personnel subject to the basic law enforcement training requirement. Before denial or revocation of certification, the officer is entitled to written notice and a hearing on the matter if the hearing is properly requested by the officer. The following findings allow the commission to revoke or deny the officer's certification:

- the peace officer failed to timely meet all requirements for a certificate of basic law enforcement training or an exemption from training;
- the peace officer knowingly falsified or omitted material information on an application to the commission;
- the peace officer has been convicted of a felony offense, except that if the prior felony conviction was fully disclosed to the employer before being hired, the commission can revoke certification only with the agreement of the employing law enforcement agency;
- the peace officer received a final discharge from duty for disqualifying misconduct;
- the peace officer's certificate was previously issued by administrative error by the commission; or

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- the peace officer interfered with an investigation or action for denial or revocation of certification by knowingly making a materially false statement to the commission, tampering with evidence, or intimidating a witness.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Additional circumstances are added to the list of findings that allow the Criminal Justice Training Commission to revoke or deny a peace officer's certification. These findings include the following:

- the peace officer has a sustained finding for untruthfulness that is an intentional and knowing misstatement of a material fact in an official proceeding that alters, or could reasonably alter, the outcome of the proceeding or the decisions of others and that finding has been sustained throughout the disciplinary process, including arbitration where applicable;
- the peace officer has a sustained finding of a felony-level criminal conviction, regardless of whether the officer was on duty at the time;
- the peace officer has a sustained finding of a gross misdemeanor criminal conviction while on duty; or
- the peace officer has a sustained finding of a criminal conviction for assault in the fourth degree, theft in the third degree, or malicious mischief in the third degree while off duty.

Some or all of the acts or omissions forming the basis for one of the preceding findings must have occurred on or after July 1, 2014.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The public trust in law enforcement needs to be protected. This bill ensures due process for the officer and the accountability that is appropriate for the position the officer holds. If the type of activity addressed in this bill is allowed to continue, it affects public perception of police departments as a whole. Law enforcement agencies also incur additional costs because the officer is on paid administrative leave while the local government tries to figure out what to do with the officer who the agency is ordered to reinstate. This bill is about maintaining the integrity of our police departments. Officers want accountability, and they want command staff to hold their peers accountable to the standards they swore an oath to uphold. When officers lie, the entire department loses the public's trust. The purpose of the Criminal Justice Training Commission (Commission) is to uphold ethical standards and maintain public trust. The purpose of the arbitrator is to ensure due process. This bill does not negate the arbitration process. Additionally, the Commission provides substantial due process when denying or revoking an officer's certification. The officer is provided with notice and a hearing. The hearing panel is not heavily management weighted. Two of the members of the panel are

peers of the officer. The officer has an opportunity to offer additional information for the consideration of the commission. Through the Commission, the state certifies that an officer is suitable for the position. With that stamp of approval, the state has an obligation to monitor that certification and revisit it periodically. This is not just an issue of labor and management. The people also need to be considered. Labor negotiations cannot override the state's obligation for certification and the due process rights of people in the criminal justice system.

CON: This bill circumvents the employer/employee balance. It grants more authority to the employer and subjects the officers to politics and lack of due process. This affects arbitration because the decision as to whether an employer has acted appropriately is currently up to an impartial third party. This bill places that decision in the hands of a body composed of employer representatives. Our officers do not want to work with dishonest, bad cops. But, misconduct is already dealt with by rules and regulations and the current disciplinary process. Progressive discipline works. The current system ensures that there is no abuse of power by chiefs and sheriffs. This process works when employers follow the rules. Consistency in hiring standards is a better approach to these issues. Binding arbitration should be binding arbitration. Officers should be able to rely on the collective bargaining process to protect their rights, and it is possible to address these issues in collective bargaining agreements. The consequence of this bill would be an unfair process. This would make it possible for a police or sheriff to make a finding of dishonesty, not issue any discipline internally, and then forward the case to the Commission for decertification without any recourse for the officer. This would give blanket immunity to a chief or sheriff to violate the rights of their officers.

Persons Testifying: PRO: Don Pierce, WA Assn. of Sheriffs and Police Chiefs; Ron Mitchell, Chief of Police, Washougal Police Dept.; John Urquhart, King County Sheriff; Sue Rahr, Criminal Justice Training Commission; Tom McBride, WA Assn. of Prosecuting Attorneys.

CON: Jeff Simpson, WA State Council of Firefighters; Carl Burke, Fraternal Order of Police; Renee Maher, Council of Metropolitan Police and Sheriffs.