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**SUBSTITUTE SENATE BILL 6319**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** Senate Commerce & Labor (originally sponsored by Senators Jayapal, Litzow, Billig, Mullet, Hobbs, Fain, Hasegawa, and Habib)

READ FIRST TIME 01/28/16.

1 AN ACT Relating to civil service qualifications; amending RCW  
2 41.08.070, 41.12.070, 41.14.100, 43.101.080, and 43.101.095; and  
3 adding a new section to chapter 41.04 RCW.

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

5 **Sec. 1.** RCW 41.08.070 and 1972 ex.s. c 37 s 2 are each amended  
6 to read as follows:

7 An applicant for a position of any kind under civil service under  
8 the provisions of this chapter, must be a citizen of the United  
9 States of America or a lawful permanent resident who can read and  
10 write the English language.

11 An applicant for a position of any kind under civil service must  
12 be of an age suitable for the position applied for, in ordinary good  
13 health, of good moral character and of temperate and industrious  
14 habits; these facts to be ascertained in such manner as the  
15 commission may deem advisable.

16 **Sec. 2.** RCW 41.12.070 and 1972 ex.s. c 37 s 3 are each amended  
17 to read as follows:

18 An applicant for a position of any kind under civil service under  
19 the provisions of this chapter, must be a citizen of the United

1 States of America or a lawful permanent resident who can read and  
2 write the English language.

3 An application for a position with a law enforcement agency by a  
4 lawful permanent resident may be rejected if the law enforcement  
5 agency deems that it does not have the resources to conduct the  
6 background investigation required pursuant to chapter 43.101 RCW.  
7 "Resources" means only materials, funding, and staff time. If a law  
8 enforcement agency rejects an applicant, the law enforcement agency  
9 may not process any further applications until a material change in  
10 its resources has occurred.

11 An applicant for a position of any kind under civil service must  
12 be of an age suitable for the position applied for, in ordinary good  
13 health, of good moral character and of temperate and industrious  
14 habits; these facts to be ascertained in such manner as the  
15 commission may deem advisable.

16 **Sec. 3.** RCW 41.14.100 and 1963 c 95 s 3 are each amended to read  
17 as follows:

18 An applicant for a position of any kind under civil service under  
19 the provisions of this chapter, must be a citizen of the United  
20 States or a lawful permanent resident who can read and write the  
21 English language.

22 An application for a position with a law enforcement agency by a  
23 lawful permanent resident may be rejected if the law enforcement  
24 agency deems that it does not have the resources to conduct the  
25 background investigation required pursuant to chapter 43.101 RCW.  
26 "Resources" means only materials, funding, and staff time. If a law  
27 enforcement agency rejects an applicant, the law enforcement agency  
28 may not process any further applications until a material change in  
29 its resources has occurred.

30 **Sec. 4.** RCW 43.101.080 and 2015 c 225 s 90 are each amended to  
31 read as follows:

32 The commission shall have all of the following powers:

- 33 (1) To meet at such times and places as it may deem proper;
- 34 (2) To adopt any rules and regulations as it may deem necessary;
- 35 (3) To contract for services as it deems necessary in order to  
36 carry out its duties and responsibilities;
- 37 (4) To cooperate with and secure the cooperation of any  
38 department, agency, or instrumentality in state, county, and city

1 government, and other commissions affected by or concerned with the  
2 business of the commission;

3 (5) To do any and all things necessary or convenient to enable it  
4 fully and adequately to perform its duties and to exercise the power  
5 granted to it;

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

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

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

14 (9) To own, establish, and operate, or to contract with other  
15 qualified institutions or organizations for the operation of,  
16 training and education programs for criminal justice personnel and to  
17 purchase, lease, or otherwise acquire, subject to the approval of the  
18 department of enterprise services, a training facility or facilities  
19 necessary to the conducting of such programs;

20 (10) To establish, by rule and regulation, minimum curriculum  
21 standards for all training programs conducted for employed criminal  
22 justice personnel;

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

27 (12) To direct the development of alternative, (~~innovate~~  
28 ~~[innovative]~~) innovative, and interdisciplinary training techniques;

29 (13) To review and approve or reject training programs conducted  
30 for criminal justice personnel and rules establishing and prescribing  
31 minimum training and education standards recommended by the training  
32 standards and education boards;

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

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

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

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

4 (18) To establish rules and regulations recommended by the  
5 training standards and education boards prescribing minimum standards  
6 relating to physical, mental and moral fitness which shall govern the  
7 recruitment of criminal justice personnel where such standards are  
8 not prescribed by statute or constitutional provision;

9 (19) To require county, city, or state law enforcement agencies  
10 that make a conditional offer of employment to an applicant as a  
11 fully commissioned peace officer or a reserve officer to administer a  
12 background investigation including a check of criminal history,  
13 verification of immigrant or citizenship status as either a citizen  
14 of the United States of America or a lawful permanent resident, a  
15 psychological examination, and a polygraph test or similar assessment  
16 to each applicant, the results of which shall be used by the employer  
17 to determine the applicant's suitability for employment as a fully  
18 commissioned peace officer or a reserve officer. The background  
19 investigation, psychological examination, and the polygraph  
20 examination shall be administered in accordance with the requirements  
21 of RCW 43.101.095(2). The employing county, city, or state law  
22 enforcement agency may require that each peace officer or reserve  
23 officer who is required to take a psychological examination and a  
24 polygraph or similar test pay a portion of the testing fee based on  
25 the actual cost of the test or four hundred dollars, whichever is  
26 less. County, city, and state law enforcement agencies may establish  
27 a payment plan if they determine that the peace officer or reserve  
28 officer does not readily have the means to pay for his or her portion  
29 of the testing fee;

30 (20) To promote positive relationships between law enforcement  
31 and the citizens of the state of Washington by allowing commissioners  
32 and staff to participate in the "chief for a day program." The  
33 executive director shall designate staff who may participate. In  
34 furtherance of this purpose, the commission may accept grants of  
35 funds and gifts and may use its public facilities for such purpose.  
36 At all times, the participation of commissioners and staff shall  
37 comply with chapter 42.52 RCW and chapter 292-110 WAC.

38 All rules and regulations adopted by the commission shall be  
39 adopted and administered pursuant to the administrative procedure

1 act, chapter 34.05 RCW, and the open public meetings act, chapter  
2 42.30 RCW.

3 **Sec. 5.** RCW 43.101.095 and 2011 c 234 s 2 are each amended to  
4 read as follows:

5 (1) As a condition of continuing employment as peace officers,  
6 all Washington peace officers: (a) Shall timely obtain certification  
7 as peace officers, or timely obtain certification or exemption  
8 therefrom, by meeting all requirements of RCW 43.101.200, as that  
9 section is administered under the rules of the commission, as well by  
10 meeting any additional requirements under this chapter; and (b) shall  
11 maintain the basic certification as peace officers under this  
12 chapter.

13 (2)(a) As a condition of continuing employment for any applicant  
14 who has been offered a conditional offer of employment as a fully  
15 commissioned peace officer or a reserve officer after July 24, 2005,  
16 including any person whose certification has lapsed as a result of a  
17 break of more than twenty-four consecutive months in the officer's  
18 service as a fully commissioned peace officer or reserve officer, the  
19 applicant shall submit to a background investigation including a  
20 check of criminal history, verification of immigrant or citizenship  
21 status as either a citizen of the United States of America or a  
22 lawful permanent resident, a psychological examination, and a  
23 polygraph or similar assessment as administered by the county, city,  
24 or state law enforcement agency, the results of which shall be used  
25 to determine the applicant's suitability for employment as a fully  
26 commissioned peace officer or a reserve officer.

27 (i) The background investigation including a check of criminal  
28 history shall be administered by the county, city, or state law  
29 enforcement agency that made the conditional offer of employment in  
30 compliance with standards established in the rules of the commission.

31 (ii) The psychological examination shall be administered by a  
32 psychiatrist licensed in the state of Washington pursuant to chapter  
33 18.71 RCW or a psychologist licensed in the state of Washington  
34 pursuant to chapter 18.83 RCW, in compliance with standards  
35 established in rules of the commission.

36 (iii) The polygraph test shall be administered by an experienced  
37 polygrapher who is a graduate of a polygraph school accredited by the  
38 American polygraph association and in compliance with standards  
39 established in rules of the commission.

1 (iv) Any other test or assessment to be administered as part of  
2 the background investigation shall be administered in compliance with  
3 standards established in rules of the commission.

4 (b) The employing county, city, or state law enforcement agency  
5 may require that each peace officer or reserve officer who is  
6 required to take a psychological examination and a polygraph or  
7 similar test pay a portion of the testing fee based on the actual  
8 cost of the test or four hundred dollars, whichever is less. County,  
9 city, and state law enforcement agencies may establish a payment plan  
10 if they determine that the peace officer or reserve officer does not  
11 readily have the means to pay for his or her portion of the testing  
12 fee.

13 (3) The commission shall certify peace officers who have  
14 satisfied, or have been exempted by statute or by rule from, the  
15 basic training requirements of RCW 43.101.200 on or before January 1,  
16 2002. Thereafter, the commission may revoke certification pursuant to  
17 this chapter.

18 (4) The commission shall allow a peace officer to retain status  
19 as a certified peace officer as long as the officer: (a) Timely meets  
20 the basic law enforcement training requirements, or is exempted  
21 therefrom, in whole or in part, under RCW 43.101.200 or under rule of  
22 the commission; (b) meets or is exempted from any other requirements  
23 under this chapter as administered under the rules adopted by the  
24 commission; (c) is not denied certification by the commission under  
25 this chapter; and (d) has not had certification revoked by the  
26 commission.

27 (5) As a prerequisite to certification, as well as a prerequisite  
28 to pursuit of a hearing under RCW 43.101.155, a peace officer must,  
29 on a form devised or adopted by the commission, authorize the release  
30 to the commission of his or her personnel files, termination papers,  
31 criminal investigation files, or other files, papers, or information  
32 that are directly related to a certification matter or  
33 decertification matter before the commission.

34 (6) The commission is authorized to receive criminal history  
35 record information that includes nonconviction data for any purpose  
36 associated with employment by the commission or peace officer  
37 certification under this chapter. Dissemination or use of  
38 nonconviction data for purposes other than that authorized in this  
39 section is prohibited.

1           (7) For a national criminal history records check, the commission  
2 shall require fingerprints be submitted and searched through the  
3 Washington state patrol identification and criminal history section.  
4 The Washington state patrol shall forward the fingerprints to the  
5 federal bureau of investigation.

6           NEW SECTION.   **Sec. 6.**   A new section is added to chapter 41.04  
7 RCW to read as follows:

8           "Lawful permanent resident" has the same meaning afforded a  
9 person "lawfully admitted for permanent residence" in 8 U.S.C. Sec.  
10 1101(a)(20), as of the effective date of this section.

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