
SECOND SUBSTITUTE HOUSE BILL 1399

State of Washington

69th Legislature

2025 Regular Session

By House Appropriations (originally sponsored by Representatives Goodman, Fitzgibbon, Reed, Doglio, and Ormsby)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to modernizing, harmonizing, and clarifying laws
2 concerning sheriffs, chiefs, marshals, and police matrons; amending
3 RCW 35.21.333, 35.21.334, 35.23.161, 35.27.240, 36.28.010, 36.28.025,
4 43.101.095, 10.93.170, 36.28.020, 43.101.380, and 43.101.400; adding
5 a new section to chapter 35.21 RCW; adding a new section to chapter
6 36.28 RCW; creating new sections; and repealing RCW 36.28.011.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that specific laws
9 governing the eligibility requirements, duties, and responsibilities
10 of sheriffs, police chiefs, and marshals should be updated and
11 revised to reflect current best practices, and to ensure that local
12 law enforcement executives, whether sheriffs, police chiefs, or
13 marshals, whether appointed or elected, or whether partisan or
14 nonpartisan, are subject to the same requirements and standards. By
15 establishing such consistent requirements and standards, the
16 legislature intends to enhance the effectiveness, professionalism,
17 and accountability of law enforcement executives, to promote public
18 trust and confidence in law enforcement, and to increase community
19 safety.

20 Because all those who serve in law enforcement must maintain
21 their peace officer certification, the legislature finds that state

1 law should be clear regarding actions taken when a sheriff, police
2 chief, or marshal has their certification revoked, to ensure that
3 state law reflects consistent principles of strong accountability for
4 all ranks.

5 The legislature finds further that specially commissioned
6 officers and volunteers, if used by local law enforcement agency
7 executives to assist with agency needs, should be limited to roles
8 that do not include the authority to enforce criminal laws, including
9 the detention and arrest of others and the use of force and deadly
10 force, or the carrying of firearms or other weapons, unless the
11 person has completed peace officer training and certification
12 requirements, and that law enforcement agencies must have policies
13 circumscribing limitations on use of uniforms and badges, and the
14 permissible roles for volunteers, which may include, but are not
15 limited to, roles such as technical and administrative support,
16 bicycle recovery, community crime prevention coordination, vehicle
17 maintenance, helping with search and rescue, serving as faith
18 leaders, helping with parking enforcement and traffic management,
19 assisting with parks and recreation, animal control and caring for
20 domestic animals that may not include use of dogs to track people or
21 animals other than for search and rescue, and other public safety-
22 related community service and outreach work.

23 The legislature also intends to clarify and reinforce state law
24 establishing that the core duty of sheriffs is to enforce the
25 Washington state Constitution and laws, as enacted by the legislature
26 and interpreted by the Washington supreme court, which is in
27 alignment with the Washington supreme court's ruling in *In re Recall*
28 *of Fortney*, 196 Wn.2d 766 (2021).

29 The legislature further finds that antiquated laws regarding
30 "police matrons" should be repealed.

31 **Sec. 2.** RCW 35.21.333 and 2013 c 39 s 17 are each amended to
32 read as follows:

33 (1) A person seeking appointment to the office of chief of police
34 or marshal (~~(, of a city or town, including a code city, with a~~
35 ~~population in excess of one thousand)) in any city or town, is
36 ~~((ineligible unless)) eligible for appointment and for remaining in~~
37 that office if that person:~~

- 38 (a) Is a citizen of the United States of America;
39 (b) Is at least 25 years old;

1 (c) Has obtained a high school diploma or high school equivalency
2 certificate as provided in RCW 28B.50.536;

3 ~~((e))~~ (d) Has not been convicted under the laws of this state,
4 another state, ~~((or))~~ the United States, or the equivalent under
5 foreign law, of a felony;

6 ~~((d))~~ (e) Has not been convicted under the laws of this state,
7 another state, the United States, or the equivalent under foreign law
8 of a gross misdemeanor ~~((or any crime))~~ involving moral turpitude
9 ~~((within five years of the date of application))~~, dishonesty, fraud,
10 or corruption;

11 ~~((e))~~ (f) Has not engaged in conduct meeting the criteria
12 requiring denial or revocation of certification set forth in RCW
13 43.101.105(2);

14 (g) Has received at least a general discharge under honorable
15 conditions from any branch of the armed services for any military
16 service if the person was in the military service;

17 ~~((f))~~ (h) Has completed at least two years of regular,
18 uninterrupted, full-time ~~((commissioned))~~ law enforcement agency
19 employment involving enforcement responsibilities with a government
20 law enforcement agency; ~~((and~~

21 ~~(g) The person has been certified as a regular and commissioned~~
22 ~~enforcement officer through compliance with this state's basic~~
23 ~~training requirement or equivalency))~~

24 (i) Within 12 months of assuming office, unless otherwise
25 extended by the criminal justice training commission, has obtained
26 certification and maintains certification as required under chapter
27 43.101 RCW and the rules of the commission; and

28 (j) Except as provided in subsection (3) of this section, if not
29 yet certified, has met the background investigation requirements
30 under RCW 43.101.095, and if certified, has met the background
31 investigation requirements that confirm that the person is eligible
32 under this subsection.

33 (i) The background investigation must be completed by the
34 appointing authority no earlier than six months prior to the date of
35 appointment. The appointing authority must submit verification to the
36 criminal justice training commission that the applicant meets the
37 eligibility criteria, has complied with all applicable standards and
38 was not determined by the background investigation and commission
39 rules to be unsuitable for employment by a law enforcement agency or

1 to serve in the office of chief of police or marshal. Such
2 verification is a public record.

3 (ii) The appointing authority is responsible for any fees
4 associated with the background investigation.

5 ~~(2) ((A person seeking appointment to the office of chief of~~
6 ~~police or marshal, of a city or town, including a code city, with a~~
7 ~~population of one thousand or less, is ineligible unless that person~~
8 ~~conforms with the requirements of subsection (1) (a) through (e) of~~
9 ~~this section. A person so appointed as chief of police or marshal~~
10 ~~must successfully complete the state's basic training requirement or~~
11 ~~equivalency within nine months after such appointment, unless an~~
12 ~~extension has been granted by the criminal justice training~~
13 ~~commission.~~

14 ~~(3))~~ A person seeking appointment to the office of chief of
15 police or marshal shall provide a sworn statement under penalty of
16 perjury to the appointing authority stating that the person meets the
17 requirements of this section.

18 (3) The background investigation requirements of this section do
19 not apply to any person who is holding the office of chief of police
20 or marshal as of the effective date of this section, unless the
21 person seeks appointment to a different office of chief of police or
22 marshal.

23 (4) For the purposes of this section, "government law enforcement
24 agency" means a general authority Washington law enforcement agency
25 or a limited authority Washington law enforcement agency as defined
26 in RCW 10.93.020, or a state or federal governmental agency that is
27 authorized by law to engage in or supervise the prevention,
28 detection, investigation, or prosecution of, or the incarceration of
29 any person for, any violation of law.

30 **Sec. 3.** RCW 35.21.334 and 1987 c 339 s 5 are each amended to
31 read as follows:

32 (1) Before making an appointment ((in)) to the office of chief of
33 police or marshal in any city or town, the appointing ((agency shall
34 complete a thorough background investigation of the candidate))
35 authority must attest as part of the public record of appointment
36 that the requirements of RCW 35.21.333 have been met. ((The
37 Washington association of sheriffs and police chiefs shall develop
38 advisory procedures which may be used by the appointing authority in

1 ~~completing its background investigation of candidates for the office~~
2 ~~of chief of police or marshal))~~

3 (2) Such appointment shall be terminated, and a vacancy created,
4 if the chief of police's or marshal's certification is not maintained
5 as required, if the chief of police or marshal is disqualified from
6 serving as a law enforcement officer because of decertification under
7 chapter 43.101 RCW, or if the other requirements of RCW 35.21.333 are
8 determined to have not been met, or to have not been complied with
9 while in office. The appointing city or town authority shall appoint
10 a replacement to fill the office. The person appointed must meet the
11 requirements of RCW 35.21.333.

12 **Sec. 4.** RCW 35.23.161 and 1994 c 81 s 40 are each amended to
13 read as follows:

14 The department of police in a city of the second class shall be
15 under the direction and control of the chief of police subject to the
16 direction of the mayor. The city and chief must comply with the
17 requirements set forth in RCW 35.21.333 and 35.21.334. Any police
18 officer may pursue and arrest violators of city ordinances beyond the
19 city limits.

20 ~~((Every citizen shall lend the police chief aid, when required,~~
21 ~~for the arrest of offenders and maintenance of public order. With the~~
22 ~~concurrence of the mayor, the police chief may appoint additional~~
23 ~~police officers to serve for one day only under orders of the chief~~
24 ~~in the preservation of public order.))~~ The department must comply
25 with the requirements set forth in section 6 of this act regarding
26 use of volunteers and specially commissioned officers.

27 The police chief shall have the same authority as that conferred
28 upon sheriffs for the suppression of any riot, public tumult,
29 disturbance of the peace, or resistance against the laws or the
30 public authorities in the lawful exercise of their functions and
31 shall be entitled to the same protection.

32 The police chief shall perform such other services as may be
33 required by statute or ordinances of the city.

34 **Sec. 5.** RCW 35.27.240 and 2007 c 218 s 67 are each amended to
35 read as follows:

36 The department of police in a town shall be under the direction
37 and control of the marshal subject to the direction of the mayor. The
38 town and marshal must comply with the requirements set forth in RCW

1 35.21.333 and 35.21.334. He or she may pursue and arrest violators of
2 town ordinances beyond the town limits.

3 The marshal's lawful orders shall be promptly executed by
4 deputies ~~((τ))~~ and police officers ~~((and watchpersons. Every citizen
5 shall lend him or her aid, when required, for the arrest of offenders
6 and maintenance of public order))~~. He or she may appoint, subject to
7 the approval of the mayor, one or more deputies, for whose acts he
8 and his or her bondspersons shall be responsible, whose compensation
9 shall be fixed by the council. ~~((With the concurrence of the mayor,
10 the marshal may appoint additional police officers for one day only
11 when necessary for the preservation of public order))~~ The department
12 must comply with the requirements set forth in section 6 of this act
13 regarding use of volunteers and specially commissioned officers.

14 The marshal shall have the same authority as that conferred upon
15 sheriffs for the suppression of any riot, public tumult, disturbance
16 of the peace, or resistance against the laws or public authorities in
17 the lawful exercise of their functions and shall be entitled to the
18 same protection.

19 The marshal shall execute and return all process issued and
20 directed to ~~((him or her))~~ the marshal by any legal authority ~~((and
21 for his or her services shall receive the same fees as are paid to
22 constables))~~. The marshal shall perform such other services as the
23 council by ordinance may require.

24 NEW SECTION. Sec. 6. A new section is added to chapter 35.21
25 RCW to read as follows:

26 (1) With the exceptions of reserve officers as defined in RCW
27 10.93.020 and those volunteers and specially commissioned officers
28 who are certified under chapter 43.101 RCW, any law enforcement
29 agency in any city or town that uses volunteers or specially
30 commissioned officers to assist in the work of its law enforcement
31 agency may not provide authority to these volunteers and specially
32 commissioned officers to enforce criminal laws, carry or use firearms
33 or other weapons, or use dogs to track people or animals other than
34 for purposes of search and rescue. A law enforcement agency in a city
35 or town may utilize volunteers or specially commissioned officers to
36 assist with roles, including but not limited to, technical and
37 administrative support, bicycle recovery, community crime prevention
38 coordination, vehicle maintenance, helping with search and rescue,
39 serving as faith leaders, parking enforcement and traffic management,

1 assisting with parks and recreation, animal control and caring for
2 domestic animals, and other public safety-related community service
3 and outreach work.

4 (2) Limitations on authority and the required supervision of
5 volunteers and specially commissioned officers must be set forth in
6 that agency's policies and regulations. Agency policies and
7 regulations shall also include requirements that volunteers and
8 specially commissioned officers must be clearly identifiable by the
9 public as distinguishable from peace officers, and that if they are
10 provided badges or other identifying insignia, such identification
11 shall be officially issued by the agency and used only while on duty
12 in this role.

13 **Sec. 7.** RCW 36.28.010 and 2009 c 549 s 4050 are each amended to
14 read as follows:

15 The sheriff is the chief executive officer and conservator of the
16 peace of the county. In the execution of (~~his or her~~) the office,
17 (~~he or she and his or her~~) the sheriff and the sheriff's deputies:

18 (1) Shall enforce the Constitution and laws of the state of
19 Washington, as interpreted and applied by the state supreme court;

20 (2) Shall be authorized to make complaint of all violations of
21 the criminal law, which shall come to their knowledge, and arrest and
22 commit to (~~prison~~) jail all persons who break the peace, or attempt
23 to break it, and all persons guilty of public offenses;

24 (~~(+2)~~) (3) Shall defend the county against those who, by riot or
25 otherwise, endanger the public peace or safety;

26 (~~(+3)~~) (4) Shall execute the process and orders of the courts of
27 justice or judicial officers, when delivered for that purpose,
28 according to law;

29 (~~(+4)~~) (5) Shall execute all warrants delivered for that purpose
30 by other public officers, according to the provisions of particular
31 statutes;

32 (~~(+5)~~) (6) Shall attend, when appropriate, the sessions of the
33 courts of record held within the county, and obey (~~their~~) lawful
34 judicial orders or directions;

35 (~~(+6)~~) (7) Shall keep and preserve the peace in their respective
36 counties, and are authorized to work in collaboration with other law
37 enforcement agencies to help quiet and suppress all affrays, riots,
38 unlawful assemblies and insurrections, (~~for which purpose, and for~~)
39 effect the service of process in civil or criminal cases, and (~~in~~

1 ~~apprehending or securing~~) apprehend and secure any person for felony
2 or breach of the peace (~~(, they may)~~);

3 (8)(a) May call to their aid ((such persons, or power of their
4 county as they may deem necessary)) volunteers or specially
5 commissioned officers. With the exceptions of reserve officers as
6 defined in RCW 10.93.020 and those volunteers and specially
7 commissioned officers who are certified under chapter 43.101 RCW, any
8 sheriff in any county that uses volunteers or specially commissioned
9 officers to assist in the sheriff's work may not provide authority to
10 these volunteers and specially commissioned officers to enforce
11 criminal laws, carry or use firearms or other weapons, or use dogs to
12 track people or animals other than for purposes of search and rescue.
13 A sheriff may utilize volunteers or specially commissioned officers
14 to assist with roles, including but not limited to, technical and
15 administrative support, bicycle recovery, community crime prevention
16 coordination, vehicle maintenance, helping with search and rescue,
17 serving as faith leaders, parking enforcement and traffic management,
18 assisting with parks and recreation, animal control and caring for
19 domestic animals, and other public safety-related community service
20 and outreach work.

21 (b) Limitations on authority and the required supervision of
22 volunteers and specially commissioned officers must be set forth in
23 that agency's policies and regulations. Agency policies and
24 regulations shall also include requirements that volunteers and
25 specially commissioned officers must be clearly identifiable by the
26 public as distinguishable from peace officers, and if they are
27 provided badges or other identifying insignia, such identification
28 shall be officially issued by the agency and used only while on duty
29 in this role.

30 **Sec. 8.** RCW 36.28.025 and 1979 ex.s. c 153 s 6 are each amended
31 to read as follows:

32 ~~((A person who files a declaration of candidacy for the office of~~
33 ~~sheriff after September 1, 1979, shall have, within twelve months of~~
34 ~~assuming office, a certificate of completion of a basic law~~
35 ~~enforcement training program which complies with standards adopted by~~
36 ~~the criminal justice training commission pursuant to RCW 43.101.080~~
37 ~~and 43.101.160.~~

38 ~~This requirement does not apply to persons holding the office of~~
39 ~~sheriff in any county on September 1, 1979)) (1) A person filing for~~

1 candidacy for the office of sheriff, or seeking appointment to the
2 office of sheriff, is eligible for holding or remaining in that
3 office if that person:

4 (a) Is a citizen of the United States of America;

5 (b) Is at least 25 years old;

6 (c) Has obtained a high school diploma or high school equivalency
7 certificate as provided in RCW 28B.50.536;

8 (d) Has not been convicted under the laws of this state, another
9 state, United States law, or foreign law, of a felony;

10 (e) Has not been convicted under the laws of this state, another
11 state, the United States, or foreign law, of a gross misdemeanor
12 involving moral turpitude, dishonesty, fraud, or corruption;

13 (f) Has not engaged in conduct meeting the criteria requiring
14 denial or revocation of certification set forth in RCW 43.101.105(2);

15 (g) Has received at least a general discharge under honorable
16 conditions from any branch of the armed services for any military
17 service if the person was in the military service;

18 (h) Has completed at least two years of regular, uninterrupted,
19 full-time law enforcement agency employment involving enforcement
20 responsibilities with a government law enforcement agency;

21 (i) Within 12 months of assuming office, unless otherwise
22 extended by the criminal justice training commission, has obtained
23 certification and maintains certification as required under chapter
24 43.101 RCW and the rules of the commission; and

25 (j) Except as provided in subsection (4) of this section, if not
26 yet certified, has met the background investigation requirements
27 under RCW 43.101.095. If certified, has completed a background
28 investigation that confirms that the person is eligible under this
29 section.

30 (i) If a person is filing for candidacy for the office of
31 sheriff, the Washington state patrol must conduct the background
32 investigation and submit the completed background investigation to
33 the criminal justice training commission for verification that it
34 complies with the requirements of this section at least 45 days
35 before the deadline for filing for election. If the commission
36 determines additional background information must be gathered to
37 fulfill the statutory requirements, the commission shall request the
38 state patrol conduct the necessary additional investigation and the
39 state patrol shall resubmit the completed investigation to the
40 commission for verification. Once the commission completes its

1 verification that the background investigation requirements have or
2 have not been met, the commission shall notify the state patrol and
3 the candidate. The commission shall also at the same time post on
4 their public website maintained under RCW 43.101.400(4) a list of all
5 candidates for sheriff who have passed the required background
6 investigation so that the public and election officials may readily
7 ascertain whether any candidate filing for office has not met the
8 required eligibility criteria and is thus not eligible to be on the
9 ballot.

10 (ii) The person filing for candidacy must submit a background
11 investigation request to the Washington state patrol at least two
12 months before the deadline to file for election so that there is
13 sufficient time for the state patrol and the criminal justice
14 training commission to conduct the investigation and verification
15 process.

16 (iii) In the case of appointment, the background investigation
17 must be completed by the appointing authority no earlier than six
18 months prior to the date of appointment. The appointing authority
19 must submit verification to the criminal justice training commission
20 that the applicant meets the eligibility criteria, has complied with
21 all applicable standards and was not determined by the background
22 investigation and commission rules to be unsuitable for employment by
23 a law enforcement agency or to serve in the office of chief of police
24 or marshal. Such verification is a public record.

25 (iv) The Washington state patrol is responsible for any fees
26 associated with the background investigation for any person seeking
27 election to the office of sheriff. The appointing authority is
28 responsible for any fees associated with the background investigation
29 for any person being appointed to the office of sheriff.

30 (2) A person seeking election or appointment to the office of
31 sheriff must provide a sworn statement under penalty of perjury to
32 the state patrol or to the appointing authority stating that the
33 person meets the requirements of this section, and the state patrol
34 or appointing authority must attest as part of the public record that
35 the requirements of this section have been met.

36 (3) For the purposes of this section, "government law enforcement
37 agency" means a general authority Washington law enforcement agency
38 or a limited authority Washington law enforcement agency as defined
39 in RCW 10.93.020, or a state or federal governmental agency that is
40 authorized by law to engage in or supervise the prevention,

1 detection, investigation, or prosecution of, or the incarceration of
2 any person for, any violation of law.

3 (4) The background investigation requirements of this section do
4 not apply to any person who is holding the office of sheriff as of
5 the effective date of this section, unless the person seeks election
6 or appointment to a different office of sheriff.

7 NEW SECTION. Sec. 9. A new section is added to chapter 36.28
8 RCW to read as follows:

9 (1) In addition to the causes for vacancy of elective office set
10 forth in RCW 42.12.010, a vacancy in the office of sheriff is created
11 if the incumbent does not maintain certification as required under
12 chapter 43.101 RCW, is disqualified from serving as a law enforcement
13 officer because of decertification under chapter 43.101 RCW, or if
14 the other requirements of RCW 36.28.025 are determined to have not
15 been met or to have been violated while in office. When a vacancy has
16 been created, if it is a partisan elective office, the county
17 legislative authority of that county shall appoint a replacement to
18 fill the office. If it is a nonpartisan elective office, the county
19 executive or the county legislative authority of that county shall
20 appoint a replacement to fill the office. The person appointed must
21 meet the requirements of RCW 36.28.025.

22 (2) Where the office of sheriff is an appointed position, such
23 appointment is terminated, and a vacancy created, if the incumbent
24 does not maintain certification as required under chapter 43.101 RCW,
25 is disqualified from serving as a law enforcement officer because of
26 decertification under chapter 43.101 RCW, or if the other
27 requirements of RCW 36.28.025 are determined to have not been met or
28 to have not been complied with while in office. The appointing county
29 authority shall appoint a replacement to fill the office. The person
30 appointed must meet the requirements of RCW 36.28.025.

31 **Sec. 10.** RCW 43.101.095 and 2024 c 330 s 10 are each amended to
32 read as follows:

33 (1) (a) As a condition of employment, election, or appointment to
34 office, all ~~((Washington))~~ peace officers and all corrections
35 officers are required to obtain certification ~~((as a peace officer or~~
36 ~~corrections officer or exemption therefrom))~~ and maintain
37 certification as required by this chapter and the rules of the
38 commission.

1 (b) To ensure that sheriffs, chiefs, and marshals meet the
2 requirements in RCW 35.21.333 and 36.28.025 to obtain certification
3 within 12 months of assuming office, the commission must prioritize
4 their access to any commission training required for certification.

5 (2) (a) Any applicant (~~(who has been offered a conditional offer~~
6 ~~of employment)~~) seeking election, appointment, or employment as a
7 peace officer (~~(or)~~), reserve officer, (offered a conditional offer
8 ~~of employment as a)~~ corrections officer (after July 1, 2021), or
9 ~~(offered a conditional offer of employment)~~ as a limited authority
10 Washington peace officer who if hired would qualify as a peace
11 officer as defined by RCW 43.101.010 (~~(after July 1, 2023)~~), must
12 submit to a background investigation to determine the applicant's
13 suitability for employment. This requirement (~~(applies)~~) does not
14 apply to any person whose certification has lapsed as a result of a
15 break of more than 24 consecutive months in the officer's service
16 (~~(for a reason other than)~~) as a result of being recalled into
17 military service. Employing agencies and appointing authorities may
18 only make a conditional offer of employment pending completion of the
19 background (~~(check)~~) investigation and shall (~~(verify)~~) attest in
20 writing to the commission that they have complied with all background
21 (~~(check)~~) investigation requirements prior to making any
22 nonconditional offer of employment.

23 (b) The background (~~(check)~~) investigation must have been
24 completed within the prior six months, and include:

25 (i) A check of criminal history, any national decertification
26 index, commission records, and all disciplinary records by any
27 previous law enforcement or correctional employer, including
28 complaints or investigations of misconduct and the reason for
29 separation from employment. Law enforcement or correctional agencies
30 that previously employed or received an application from the
31 applicant shall retain application records and disclose employment or
32 application information within 30 days of receiving a written request
33 from the employing agency conducting the background investigation,
34 including the reason for the officer's separation from the agency,
35 any information regarding the candidate's application to that agency,
36 and any other information obtained during the background
37 investigation conducted as part of the application process.
38 Complaints or investigations of misconduct must be disclosed
39 regardless of the result of the investigation or whether the
40 complaint was unfounded;

1 (ii) Inquiry to the local prosecuting authority in any
2 jurisdiction in which the applicant has served as to whether the
3 applicant is on any potential impeachment disclosure list;

4 (iii) Inquiry into whether the applicant has any past or present
5 affiliations with extremist organizations, as defined by the
6 commission;

7 (iv) A review of the applicant's social media accounts;

8 (v) Verification of immigrant or citizenship status as either a
9 citizen of the United States of America, lawful permanent resident,
10 or deferred action for childhood arrivals recipient;

11 (vi) A psychological examination administered by a psychiatrist
12 licensed in the state of Washington pursuant to chapter 18.71 RCW or
13 a psychologist licensed in the state of Washington pursuant to
14 chapter 18.83 RCW, in compliance with standards established in rules
15 of the commission;

16 (vii) A polygraph or similar assessment administered by an
17 experienced professional with appropriate training and in compliance
18 with standards established in rules of the commission; and

19 (viii) Except as otherwise provided in this section, any test or
20 assessment to be administered as part of the background investigation
21 shall be administered in compliance with standards established in
22 rules of the commission.

23 (c) The commission may establish standards for the background
24 ~~((check))~~ investigation requirements in this section and any other
25 preemployment background ~~((check))~~ investigation requirement that may
26 be imposed by an employing agency or the commission.

27 ~~((d) The employing law enforcement agency may require that each
28 person who is required to take a psychological examination and a
29 polygraph or similar test pay a portion of the testing fee based on
30 the actual cost of the test or \$400, whichever is less. Employing
31 agencies may establish a payment plan if they determine that the
32 person does not readily have the means to pay the testing fee.))~~

33 (3) (a) The commission shall allow a peace officer or corrections
34 officer to retain status as a certified ~~((peace officer or
35 corrections))~~ officer as long as the officer: (i) Timely meets the
36 basic training requirements, or is exempted therefrom, in whole or in
37 part, under RCW 43.101.200 or under rule of the commission; (ii)
38 timely meets or is exempted from any other requirements under this
39 chapter as administered under the rules adopted by the commission;
40 (iii) is not denied certification by the commission under this

1 chapter; and (iv) has not had certification suspended or revoked by
2 the commission.

3 (b) The commission shall certify peace officers who are limited
4 authority Washington peace officers employed on or before July 1,
5 2023. Thereafter, the commission may revoke certification pursuant to
6 this chapter.

7 (4) As a condition of certification and of a background
8 investigation, a peace officer or corrections officer must ~~((, or))~~:

9 (a) On a form devised or adopted by the commission, authorize the
10 release to the employing county, city, or agency and to the
11 commission of the officer's personnel files, including disciplinary,
12 termination, civil or criminal investigation, or other records or
13 information that are directly related to a certification matter or
14 decertification matter before the commission ~~((The peace officer or~~
15 ~~corrections officer must also consent))~~;

16 (b) Consent to and facilitate a review of the officer's social
17 media accounts, however, consistent with RCW 49.44.200, the officer
18 is not required to provide login information. The release of
19 information may not be delayed, limited, or precluded by any
20 agreement or contract between the officer, or the officer's union,
21 and the entity responsible for the records or information; and

22 (c) Indicate, on a form provided by the hiring agency, any prior
23 application materials, including any background investigation
24 conducted while seeking employment with any other law enforcement
25 agency, including where the applicant began but did not complete a
26 full background investigation.

27 (5) The employing county, city, or agency and commission are
28 authorized to receive criminal history record information that
29 includes nonconviction data for any purpose associated with
30 employment or certification under this chapter. Dissemination or use
31 of nonconviction data for purposes other than that authorized in this
32 section is prohibited.

33 (6) For a national criminal history records check, the commission
34 shall require fingerprints be submitted and searched through the
35 Washington state patrol identification and criminal history section.
36 The Washington state patrol shall forward the fingerprints to the
37 federal bureau of investigation.

38 (7) Prior to certification, or to appointment as a sheriff,
39 chief, or marshal, the employing agency shall ~~((certify))~~ attest to
40 the commission that the agency has received or conducted a completed

1 ~~((the))~~ background ~~((check))~~ investigation, no information has been
2 found that would disqualify the applicant from certification, ~~((and))~~
3 that the applicant ~~((is))~~ was determined by the background
4 investigation and under commission rules to be suitable for election
5 or employment as a peace officer ~~((or))~~, corrections officer,
6 sheriff, chief, or marshal. Applicants determined by the background
7 investigation to have engaged in conduct meeting the criteria set
8 forth in RCW 43.101.105(2) shall be considered unsuitable for
9 election or for employment as a peace officer. For candidates for the
10 elective office of sheriff, the person filing for office must, by the
11 deadline to file as a candidate, have completed the background
12 investigation required by chapter 36.28 RCW.

13 (8) All files, papers, and other information obtained as part of
14 the background investigation are confidential and exempt from public
15 disclosure under chapter 42.56 RCW. The verification by the
16 commission that the background investigation has been completed and
17 passed is a public record. The commission must retain the background
18 investigation files.

19 (9) (a) In order to assure consistent use of best practices
20 regarding the standards for determining whether a background
21 investigation has identified information that should disqualify an
22 applicant, the commission shall, by June 30, 2026, issue guidelines
23 with criteria to be applied by employing counties, cities, agencies,
24 and the commission in determining whether an applicant is suitable
25 for employment pursuant to this section.

26 (b) To assist in developing these guidelines regarding
27 potentially disqualifying criteria, the commission shall seek input
28 from individuals who have experience in conducting or reviewing law
29 enforcement background investigations, misconduct or human resource
30 complaints, investigations, or disciplinary decisions, or who provide
31 community perspective, which may include:

32 (i) Chiefs, sheriffs, law enforcement agency human resource
33 staff, legal counsel, or others from law enforcement agencies or
34 city, county, or state human resources departments;

35 (ii) Individuals who serve as or have served as polygraph
36 examiners or psychologists for law enforcement background
37 investigations;

38 (iii) Individuals who serve in or have served in law enforcement
39 accountability oversight roles;

1 (iv) Representatives from the Washington association of sheriffs
2 and police chiefs, the Washington state patrol, the Washington
3 fraternal order of police, the Washington council of police and
4 sheriffs, and a union representing the interests of peace officers
5 and corrections officers; and

6 (v) Community representatives, including a community member from
7 Eastern Washington.

8 (c) The guidelines shall include criteria that must result in
9 mandatory disqualification, and criteria that may result in
10 disqualification, including all grounds for the denial, suspension,
11 or revocation of an officer's certification under RCW 43.101.105(3),
12 with factors to be considered by the agency or by the commission in
13 making that discretionary determination.

14 (10) As used in this section, "applicant" includes a person
15 applying to serve as a new officer, a lateral transfer within the
16 state or from another state from a law enforcement or corrections
17 agency to a different law enforcement or corrections agency, or an
18 officer moving from a corrections division to a law enforcement
19 division or vice versa within the same agency unless exempted by the
20 commission, or a person seeking appointment or election as a sheriff,
21 chief, or marshal.

22 (11) Every individual, legal entity, and agency of federal,
23 state, or local government is immune from civil liability, whether
24 direct or derivative, for providing information to the commission,
25 employing agencies, potential employing agencies, or appointing
26 authorities in good faith.

27 **Sec. 11.** RCW 10.93.170 and 2021 c 323 s 30 are each amended to
28 read as follows:

29 A general authority Washington law enforcement agency or limited
30 authority Washington law enforcement agency is prohibited from
31 considering the application for any office, place, position, or
32 employment within the agency if the applicant has not provided the
33 agency a document, voluntarily and knowingly signed by the applicant,
34 that authorizes each prior employer or each agency to which the
35 applicant has applied to release any and all information relating to
36 the applicant's employment or application for employment, and further
37 releasing and holding harmless the agency and each prior employer or
38 agency to which the applicant has applied from any and all liability

1 that may potentially result from the release and use of such
2 information provided.

3 **Sec. 12.** RCW 36.28.020 and 2009 c 549 s 4051 are each amended to
4 read as follows:

5 Every deputy sheriff shall possess all the power, and may perform
6 any of the duties, prescribed by law to be performed by the sheriff,
7 and shall serve or execute, according to law, all process, writs,
8 precepts, and orders, issued by lawful authority.

9 Persons may also be deputed by the sheriff in writing to do
10 particular acts; including the service of process in civil or
11 criminal cases, and the sheriff shall be responsible on his or her
12 official bond for their default or misconduct. The use of such
13 persons shall be limited to functions and actions not involving use
14 of law enforcement authority or carrying of firearms or other weapons
15 unless such persons are certified under chapter 43.101 RCW.

16 **Sec. 13.** RCW 43.101.380 and 2021 c 323 s 20 are each amended to
17 read as follows:

18 (1) The procedures governing adjudicative proceedings before
19 agencies under chapter 34.05 RCW, the administrative procedure act,
20 govern hearings before the commission and govern all other actions
21 before the commission unless otherwise provided in this chapter. The
22 standard of proof in actions before the commission is a preponderance
23 of the evidence.

24 (2) In all hearings requested under RCW 43.101.155, an
25 administrative law judge appointed under chapter 34.12 RCW shall be
26 the presiding officer, shall make all necessary rulings in the course
27 of the hearing, and shall issue a proposed recommendation, but is not
28 entitled to vote. In addition, a five-member hearings panel shall
29 hear the case and make the commission's final administrative
30 decision.

31 (3) The commission shall appoint a panel to hear certification
32 actions as follows:

33 (a) When a hearing is requested in relation to a certification
34 action of a Washington peace officer, the commission shall appoint to
35 the panel: (i) One police chief or sheriff from an agency not a
36 current or past employer of the peace officer; (ii) one certified
37 Washington peace officer who is at or below the level of first line
38 supervisor and who has at least ten years' experience as a peace

1 officer; (iii) one civilian member of the commission as appointed
2 under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of
3 the public who is not a prosecutor, defense attorney, judge, or law
4 enforcement officer; and (v) one person with expertise and background
5 in police accountability who is not a current or former peace officer
6 or corrections officer.

7 (b) When a hearing is requested in relation to a certification
8 action of a Washington corrections officer, the commission shall
9 appoint to the panel: (i) A person who heads either a city or county
10 corrections agency or facility or of a Washington state department of
11 corrections facility; (ii) one corrections officer who is at or below
12 the level of first line supervisor and who has at least ten years'
13 experience as a corrections officer; (iii) one civilian member of the
14 commission as appointed under RCW 43.101.030(1) (f) and (h) through
15 (j); (iv) one member of the public who is not a prosecutor, defense
16 attorney, judge, or law enforcement officer; and (v) one person with
17 expertise and background in police accountability who is not a
18 current or former peace officer or corrections officer.

19 (c) When a hearing is requested in relation to a certification
20 action of a tribal police officer, the commission shall appoint to
21 the panel (i) one tribal police chief; (ii) one tribal police officer
22 who is at or below the level of first line supervisor, and who has at
23 least ten years' experience as a peace officer; (iii) one civilian
24 member of the commission as appointed under RCW 43.101.030(1) (f) and
25 (h) through (j); (iv) one member of the public who is not a
26 prosecutor, defense attorney, judge, or law enforcement officer; and
27 (v) one person with expertise and background in police accountability
28 who is not a current or former peace officer or corrections officer.

29 (d) Persons appointed to hearings panels by the commission shall,
30 in relation to any certification action on which they sit, have the
31 powers, duties, and immunities, and are entitled to the emoluments,
32 including travel expenses in accordance with RCW 43.03.050 and
33 43.03.060, of regular commission members.

34 (4) In decertification matters where there was a due process
35 hearing or a disciplinary appeals hearing following an investigation
36 by a law enforcement agency, or a criminal hearing regarding the
37 alleged misconduct, the hearings panel need not redetermine the
38 underlying facts but may make its determination based solely on
39 review of the records and decision relating to those proceedings and
40 any investigative or summary materials from the administrative law

1 judge, legal counsel, and commission staff. However, the hearings
2 panel may, in its discretion, consider additional evidence to
3 determine whether misconduct occurred. The hearings panel shall, upon
4 written request by the subject peace officer or corrections officer,
5 allow the peace officer or corrections officer to present additional
6 evidence of extenuating circumstances.

7 (5) The commission is authorized to proceed regardless of whether
8 an arbitrator or other appellate decision maker overturns the
9 discipline imposed by the officer's employing agency or whether the
10 agency settles an appeal. No action or failure to act by a law
11 enforcement agency or corrections agency or decision resulting from
12 an appeal of that action precludes action by the commission to
13 suspend or revoke an officer's certificate, to place on probation, or
14 to require remedial training for the officer.

15 (6) The hearings, but not the deliberations of the hearings
16 panel, are open to the public. The transcripts, admitted evidence,
17 and written decisions of the hearings panel on behalf of the
18 commission are not confidential or exempt from public disclosure, and
19 are subject to subpoena and discovery proceedings in civil actions.

20 (7) Summary records of hearing dispositions, revocations obtained
21 via default or surrender, certification denials, and all cases that
22 were resolved with disciplinary action, must be made available on an
23 annual basis on a public website.

24 (8) The commission's final administrative decision is subject to
25 judicial review under RCW 34.05.510 through 34.05.598.

26 **Sec. 14.** RCW 43.101.400 and 2021 c 323 s 21 are each amended to
27 read as follows:

28 (1) Except as provided under subsection (2) of this section, all
29 files, papers, and other information obtained by the commission as
30 part of ((an initial)) a background investigation pursuant to RCW
31 43.101.095 ((-2) and (-4)), 36.28.025, and 35.21.333 are confidential
32 and exempt from public disclosure. Such records are not subject to
33 public disclosure, subpoena, or discovery proceedings in any civil
34 action, except as provided in RCW 43.101.380(6) or which become part
35 of the record in a suspension or decertification ((matter)) hearing.

36 (2) Records which are otherwise confidential and exempt from
37 public disclosure under subsection (1) of this section may be
38 reviewed and copied: (a) By the officer involved or the officer's
39 counsel or authorized representative, who may review the officer's

1 file after the officer has been served with a statement of charges
2 pursuant to RCW 43.101.155, and may submit any additional exculpatory
3 or explanatory evidence, statements, or other information, any of
4 which must be included in the file; (b) by a duly authorized
5 representative of (i) the agency of termination, or (ii) a current
6 employing law enforcement or corrections agency, which may review and
7 copy its employee-officer's file; or (c) by a representative of or
8 investigator for the commission.

9 (3) Records which are otherwise confidential and exempt from
10 public disclosure under subsection (1) of this section may also be
11 inspected at the offices of the commission by a duly authorized
12 representative of a law enforcement or corrections agency considering
13 an application for employment by a person who is the subject of a
14 record. A copy of records which are otherwise confidential and exempt
15 under subsection (1) of this section may later be obtained by an
16 agency after it hires the applicant. In all other cases under this
17 subsection, the agency may not obtain a copy of the record.

18 (4) The commission shall maintain a database that is publicly
19 searchable, machine readable, and exportable, and accompanied by a
20 complete, plain-language data dictionary describing the names of
21 officers and employing agencies, all conduct investigated,
22 certifications denied, notices and accompanying information provided
23 by law enforcement or correctional agencies, including the reasons
24 for separation from the agency, decertification or suspension actions
25 pursued, and final disposition and the reasons therefor for at least
26 30 years after final disposition of each incident. The dates for each
27 material step of the process must be included. Any decertification
28 must be reported to the national decertification index.

29 (5) Every individual, legal entity, and agency of federal, state,
30 or local government is immune from civil liability, whether direct or
31 derivative, for providing information to the commission in good
32 faith.

33 NEW SECTION. Sec. 15. RCW 36.28.011 (Duty to make complaint)
34 and 1963 c 4 s 36.28.011 are each repealed.

35 NEW SECTION. Sec. 16. If any provision of this act or its
36 application to any person or circumstance is held invalid, the
37 remainder of the act or the application of the provision to other
38 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 17.** If specific funding for the purposes of
2 this act, referencing this act by bill or chapter number, is not
3 provided by June 30, 2025, in the omnibus appropriations act, this
4 act is null and void.

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