
HOUSE BILL 1399

State of Washington

69th Legislature

2025 Regular Session

By Representatives Goodman, Fitzgibbon, Reed, Doglio, and Ormsby

Read first time 01/20/25. Referred to Committee on Community Safety.

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, 36.28.020, 43.101.380, and 43.101.400; adding a new
5 section to chapter 35.21 RCW; adding a new section to chapter 36.28
6 RCW; creating a new section; and repealing RCW 35.66.010, 35.66.020,
7 35.66.030, 35.66.040, 35.66.050, and 36.28.011.

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

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

1 Where all those who serve in law enforcement must maintain their
2 peace officer certification, the legislature finds that state law
3 should be clear regarding actions taken when a sheriff, police chief,
4 or marshal has their certification revoked, to ensure that state law
5 reflects consistent principles of strong accountability for all
6 ranks.

7 The legislature finds further that specially commissioned
8 officers and volunteers, if retained by local law enforcement
9 executives to assist with agency needs, should be limited to roles
10 that do not involve taking law enforcement actions, including the
11 carrying of firearms or other weapons, the detention and arrest of
12 others, and the use of force and deadly force, unless the person has
13 completed peace officer training and certification requirements, and
14 that law enforcement agencies must have policies circumscribing the
15 permissible roles for volunteers, including search and rescue, care
16 of animals, and chaplaincy, and limitations on use of uniforms and
17 badges.

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

24 The legislature further finds that antiquated laws regarding
25 "police matrons" should be repealed.

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

28 (1) A person seeking appointment to the office of chief of police
29 or marshal (~~(, of a city or town, including a code city, with a~~
30 ~~population in excess of one thousand)) in any city or town, is
31 ~~((ineligible unless))~~ eligible for appointment and for remaining in
32 that office if that person:~~

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

34 (b) Is at least 25 years old;

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

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

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

6 ~~((e))~~ (f) Has not engaged in conduct meeting the criteria
7 requiring denial or revocation of certification set forth in RCW
8 43.101.105(2);

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

12 ~~((f))~~ (h) Has completed at least two years of regular,
13 uninterrupted, full-time (~~commissioned~~) law enforcement agency
14 employment involving enforcement responsibilities with a government
15 law enforcement agency; (~~and~~

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

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

23 (j) Except as provided in subsection (3) of this section, if not
24 yet certified, has met the background investigation requirements
25 under RCW 43.101.095, and if certified, has met the background
26 investigation requirements that confirm that the person is eligible
27 under this subsection.

28 (i) The background investigation must be completed by the
29 appointing authority no earlier than six months prior to the date of
30 appointment. The appointing authority must submit verification to the
31 criminal justice training commission that the applicant meets the
32 eligibility criteria, has complied with all applicable standards and
33 was not determined by the background investigation and commission
34 rules to be unsuitable for employment by a law enforcement agency or
35 to serve in the office of chief of police or marshal. Such
36 verification is a public record.

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

39 ~~(2) ((A person seeking appointment to the office of chief of~~
40 police or marshal, of a city or town, including a code city, with a

1 population of one thousand or less, is ineligible unless that person
2 conforms with the requirements of subsection (1) (a) through (e) of
3 this section. A person so appointed as chief of police or marshal
4 must successfully complete the state's basic training requirement or
5 equivalency within nine months after such appointment, unless an
6 extension has been granted by the criminal justice training
7 commission.

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

12 (3) The background investigation requirements of this section do
13 not apply to any person who is holding the office of chief of police
14 or marshal as of the effective date of this section, unless the
15 person seeks appointment to a different office of chief of police or
16 marshal.

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

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

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

35 (2) Such appointment shall be terminated, and a vacancy created,
36 if the chief of police's or marshal's certification is not maintained
37 as required, if the chief of police or marshal is disqualified from
38 serving as a law enforcement officer because of decertification under
39 chapter 43.101 RCW, or if the other requirements of RCW 35.21.333 are

1 determined to have not been met, or to have not been complied with
2 while in office. The appointing city or town authority shall appoint
3 a replacement to fill the office. The person appointed must meet the
4 requirements of RCW 35.21.333.

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

7 The department of police in a city of the second class shall be
8 under the direction and control of the chief of police subject to the
9 direction of the mayor. The city and chief must comply with the
10 requirements set forth in RCW 35.21.333 and 35.21.334. Any police
11 officer may pursue and arrest violators of city ordinances beyond the
12 city limits.

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

20 The police chief shall have the same authority as that conferred
21 upon sheriffs for the suppression of any riot, public tumult,
22 disturbance of the peace, or resistance against the laws or the
23 public authorities in the lawful exercise of their functions and
24 shall be entitled to the same protection.

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

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

29 The department of police in a town shall be under the direction
30 and control of the marshal subject to the direction of the mayor. The
31 town and marshal must comply with the requirements set forth in RCW
32 35.21.333 and 35.21.334. He or she may pursue and arrest violators of
33 town ordinances beyond the town limits.

34 The marshal's lawful orders shall be promptly executed by
35 deputies ~~((r)) and police officers ~~((and watchpersons. Every citizen~~
36 ~~shall lend him or her aid, when required, for the arrest of offenders~~
37 ~~and maintenance of public order))~~. He or she may appoint, subject to
38 the approval of the mayor, one or more deputies, for whose acts he~~

1 and his or her bondspersons shall be responsible, whose compensation
2 shall be fixed by the council. (~~With the concurrence of the mayor,~~
3 ~~the marshal may appoint additional police officers for one day only~~
4 ~~when necessary for the preservation of public order~~) The department
5 must comply with the requirements set forth in section 6 of this act
6 regarding use of volunteers and specially commissioned officers.

7 The marshal shall have the same authority as that conferred upon
8 sheriffs for the suppression of any riot, public tumult, disturbance
9 of the peace, or resistance against the laws or public authorities in
10 the lawful exercise of their functions and shall be entitled to the
11 same protection.

12 The marshal shall execute and return all process issued and
13 directed to him or her by any legal authority and for his or her
14 services shall receive the same fees as are paid to constables. The
15 marshal shall perform such other services as the council by ordinance
16 may require.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.21
18 RCW to read as follows:

19 (1) If a law enforcement agency in any city or town uses
20 volunteers or specially commissioned officers to assist in the work
21 of their agency, the roles of volunteers and specially commissioned
22 officers, other than those who serve as reserve officers as defined
23 in RCW 10.93.020, shall be limited to functions and actions not
24 involving use of law enforcement authority or carrying of or use of
25 firearms or other weapons, unless the volunteer or specially
26 commissioned officer is certified under chapter 43.101 RCW.

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

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

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

4 (1) Shall enforce the Constitution and laws of the United States
5 and the Constitution and laws of the state of Washington, as
6 interpreted and applied by the state supreme court;

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

11 ~~((+2))~~ (3) Shall defend the county against those who, by riot or
12 otherwise, endanger the public peace or safety;

13 ~~((+3))~~ (4) Shall execute the process and orders of the courts of
14 justice or judicial officers, when delivered for that purpose,
15 according to law;

16 ~~((+4))~~ (5) Shall execute all warrants delivered for that purpose
17 by other public officers, according to the provisions of particular
18 statutes;

19 ~~((+5))~~ (6) Shall attend, when appropriate, the sessions of the
20 courts of record held within the county, and obey ~~((their))~~ lawful
21 judicial orders or directions;

22 ~~((+6))~~ (7) Shall keep and preserve the peace in their respective
23 counties, and are authorized to work in collaboration with other law
24 enforcement agencies to help quiet and suppress all affrays, riots,
25 unlawful assemblies and insurrections, ~~((for which purpose, and for))~~
26 effect the service of process in civil or criminal cases, and ~~((in~~
27 ~~apprehending or securing))~~ apprehend and secure any person for felony
28 or breach of the peace ~~((, they may));~~

29 (8) (a) May call to their aid ~~((such persons, or power of their~~
30 county as they may deem necessary)) volunteers or specially
31 commissioned officers. The roles of volunteers and specially
32 commissioned officers, other than those who serve as reserve officers
33 as defined in RCW 10.93.020, shall be limited to functions and
34 actions not involving use of law enforcement authority or carrying of
35 or use of firearms or other weapons, unless the volunteer or
36 specially commissioned officer is certified under chapter 43.101 RCW.

37 (b) Limitations on authority and the required supervision of
38 volunteers and specially commissioned officers must be set forth in
39 that agency's policies and regulations. Agency policies and
40 regulations shall also include requirements that volunteers and

1 specially commissioned officers must be clearly identifiable by the
2 public as distinguishable from peace officers, and if they are
3 provided badges or other identifying insignia, such identification
4 shall be officially issued by the agency and used only while on duty
5 in this role.

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

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

14 ~~This requirement does not apply to persons holding the office of~~
15 ~~sheriff in any county on September 1, 1979))~~ (1) A person filing for
16 candidacy for the office of sheriff, or seeking appointment to the
17 office of sheriff, is eligible for holding or remaining in that
18 office if that person:

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

20 (b) Is at least 25 years old;

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

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

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

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

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

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

36 (i) Within 12 months of assuming office, unless otherwise
37 extended by the criminal justice training commission, has obtained
38 certification and maintains certification as required under chapter
39 43.101 RCW and the rules of the commission; and

1 (j) Except as provided in subsection (4) of this section, if not
2 yet certified, has met the background investigation requirements
3 under RCW 43.101.095. If certified, has completed a background
4 investigation that confirms that the person is eligible under this
5 section.

6 (i) If a person is filing for candidacy for the office of
7 sheriff, the Washington state patrol must conduct the background
8 investigation and submit the completed background investigation to
9 the criminal justice training commission for verification that it
10 complies with the requirements of this section at least 45 days
11 before the deadline for filing for election. If the commission
12 determines additional background information must be gathered to
13 fulfill the statutory requirements, the commission shall request the
14 state patrol conduct the necessary additional investigation and the
15 state patrol shall resubmit the completed investigation to the
16 commission for verification. Once the commission completes its
17 verification that the background investigation requirements have or
18 have not been met, the commission shall notify the state patrol and
19 the candidate. The commission shall also at the same time post on
20 their public website maintained under RCW 43.101.400(4) a list of all
21 candidates for sheriff who have passed the required background
22 investigation so that the public and election officials may readily
23 ascertain whether any candidate filing for office has not met the
24 required eligibility criteria and is thus not eligible to be on the
25 ballot.

26 (ii) The person filing for candidacy must submit a background
27 investigation request to the Washington state patrol at least three
28 months before the deadline to file for election so that there is
29 sufficient time for the state patrol and the criminal justice
30 training commission to conduct the investigation and verification
31 process.

32 (iii) In the case of appointment, the background investigation
33 must be completed by the appointing authority no earlier than six
34 months prior to the date of appointment. The appointing authority
35 must submit verification to the criminal justice training commission
36 that the applicant meets the eligibility criteria, has complied with
37 all applicable standards and was not determined by the background
38 investigation and commission rules to be unsuitable for employment by
39 a law enforcement agency or to serve in the office of chief of police
40 or marshal. Such verification is a public record.

1 (iv) The Washington state patrol is responsible for any fees
2 associated with the background investigation for any person seeking
3 election to the office of sheriff. The appointing authority is
4 responsible for any fees associated with the background investigation
5 for any person being appointed to the office of sheriff.

6 (2) A person seeking election or appointment to the office of
7 sheriff must provide a sworn statement under penalty of perjury to
8 the state patrol or to the appointing authority stating that the
9 person meets the requirements of this section, and the state patrol
10 or appointing authority must attest as part of the public record that
11 the requirements of this section have been met.

12 (3) For the purposes of this section, "government law enforcement
13 agency" means a general authority Washington law enforcement agency
14 or a limited authority Washington law enforcement agency as defined
15 in RCW 10.93.020, or a state or federal governmental agency that is
16 authorized by law to engage in or supervise the prevention,
17 detection, investigation, or prosecution of, or the incarceration of
18 any person for, any violation of law.

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

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

25 (1) In addition to the causes for vacancy of elective office set
26 forth in RCW 42.12.010, a vacancy in the office of sheriff is created
27 if the incumbent does not maintain certification as required under
28 chapter 43.101 RCW, is disqualified from serving as a law enforcement
29 officer because of decertification under chapter 43.101 RCW, or if
30 the other requirements of RCW 36.28.025 are determined to have not
31 been met or to have been violated while in office. When a vacancy has
32 been created, if it is a partisan elective office, the county
33 legislative authority of that county shall appoint a replacement to
34 fill the office. If it is a nonpartisan elective office, the county
35 executive or the county legislative authority of that county shall
36 appoint a replacement to fill the office. The person appointed must
37 meet the requirements of RCW 36.28.025.

38 (2) Where the office of sheriff is an appointed position, such
39 appointment is terminated, and a vacancy created, if the incumbent

1 does not maintain certification as required under chapter 43.101 RCW,
2 is disqualified from serving as a law enforcement officer because of
3 decertification under chapter 43.101 RCW, or if the other
4 requirements of RCW 36.28.025 are determined to have not been met or
5 to have not been complied with while in office. The appointing county
6 authority shall appoint a replacement to fill the office. The person
7 appointed must meet the requirements of RCW 36.28.025.

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

10 (1) (a) As a condition of employment, election, or appointment to
11 office, all ~~((Washington))~~ peace officers and all corrections
12 officers are required to obtain certification ~~((as a peace officer or~~
13 ~~corrections officer or exemption therefrom))~~ and maintain
14 certification as required by this chapter and the rules of the
15 commission.

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

20 (2) (a) Any applicant ~~((who has been offered a conditional offer~~
21 ~~of employment))~~ seeking election, appointment, or employment as a
22 peace officer ~~((or)),~~ reserve officer, ~~((offered a conditional offer~~
23 ~~of employment as a))~~ corrections officer ~~((after July 1, 2021)),~~ or
24 ~~((offered a conditional offer of employment))~~ as a limited authority
25 Washington peace officer who if hired would qualify as a peace
26 officer as defined by RCW 43.101.010 ~~((after July 1, 2023)),~~ must
27 submit to a background investigation to determine the applicant's
28 suitability for employment. This requirement ~~((applies))~~ does not
29 apply to any person whose certification has lapsed as a result of a
30 break of more than 24 consecutive months in the officer's service
31 ~~((for a reason other than))~~ as a result of being recalled into
32 military service. Employing agencies and appointing authorities may
33 only make a conditional offer of employment pending completion of the
34 background ~~((check))~~ investigation and shall ~~((verify))~~ attest in
35 writing to the commission that they have complied with all background
36 ~~((check))~~ investigation requirements prior to making any
37 nonconditional offer of employment.

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

1 (i) A check of criminal history, any national decertification
2 index, commission records, and all disciplinary records by any
3 previous law enforcement or correctional employer, including
4 complaints or investigations of misconduct and the reason for
5 separation from employment. Law enforcement or correctional agencies
6 that previously employed or received an application from the
7 applicant shall retain application records and disclose employment or
8 application information within 30 days of receiving a written request
9 from the employing agency conducting the background investigation,
10 including the reason for the officer's separation from the agency,
11 any information regarding the candidate's application to that agency,
12 and any other information obtained during the background
13 investigation conducted as part of the application process.

14 Complaints or investigations of misconduct must be disclosed
15 regardless of the result of the investigation or whether the
16 complaint was unfounded;

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

20 (iii) Inquiry into whether the applicant has any past or present
21 affiliations with extremist organizations, as defined by the
22 commission;

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

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

27 (vi) A psychological examination administered by a psychiatrist
28 licensed in the state of Washington pursuant to chapter 18.71 RCW or
29 a psychologist licensed in the state of Washington pursuant to
30 chapter 18.83 RCW, in compliance with standards established in rules
31 of the commission;

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

35 (viii) Except as otherwise provided in this section, any test or
36 assessment to be administered as part of the background investigation
37 shall be administered in compliance with standards established in
38 rules of the commission.

39 (c) The commission may establish standards for the background
40 (~~check~~) investigation requirements in this section and any other

1 preemployment background (~~check~~) investigation requirement that may
2 be imposed by an employing agency or the commission.

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

9 (3) (a) The commission shall allow a peace officer or corrections
10 officer to retain status as a certified (~~peace officer or~~
11 ~~corrections~~) officer as long as the officer: (i) Timely meets the
12 basic training requirements, or is exempted therefrom, in whole or in
13 part, under RCW 43.101.200 or under rule of the commission; (ii)
14 timely meets or is exempted from any other requirements under this
15 chapter as administered under the rules adopted by the commission;
16 (iii) is not denied certification by the commission under this
17 chapter; and (iv) has not had certification suspended or revoked by
18 the commission.

19 (b) The commission shall certify peace officers who are limited
20 authority Washington peace officers employed on or before July 1,
21 2023. Thereafter, the commission may revoke certification pursuant to
22 this chapter.

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

25 (a) On a form devised or adopted by the commission, authorize the
26 release to the employing county, city, or agency and to the
27 commission of the officer's personnel files, including disciplinary,
28 termination, civil or criminal investigation, or other records or
29 information that are directly related to a certification matter or
30 decertification matter before the commission ~~((The peace officer or~~
31 ~~corrections officer must also consent))~~;

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

38 (c) Indicate, on a form provided by the hiring agency, any prior
39 application materials, including any background investigation
40 conducted while seeking employment with any other law enforcement

1 agency, including where the applicant began but did not complete a
2 full background investigation.

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

9 (6) For a national criminal history records check, the commission
10 shall require fingerprints be submitted and searched through the
11 Washington state patrol identification and criminal history section.
12 The Washington state patrol shall forward the fingerprints to the
13 federal bureau of investigation.

14 (7) Prior to certification, or to appointment as a sheriff,
15 chief, or marshal, the employing agency shall ~~((certify))~~ attest to
16 the commission that the agency has received or conducted a completed
17 ~~((the))~~ background ~~((check))~~ investigation, no information has been
18 found that would disqualify the applicant from certification, ~~((and))~~
19 that the applicant ((is)) was determined by the background
20 investigation and under commission rules to be suitable for election
21 or employment as a peace officer ((or)), corrections officer,
22 sheriff, chief, or marshal. For candidates for the elective office of
23 sheriff, the person filing for office must, by the deadline to file
24 as a candidate, have completed the background investigation required
25 by chapter 36.28 RCW.

26 (8) All files, papers, and other information obtained as part of
27 the background investigation are confidential and exempt from public
28 disclosure under chapter 42.56 RCW. The verification by the
29 commission that the background investigation has been completed and
30 passed is a public record. The commission must retain the background
31 investigation files.

32 (9) (a) In order to assure consistent use of best practices
33 regarding the standards for determining whether a background
34 investigation has identified information that should disqualify an
35 applicant, the commission shall, by June 30, 2026, adopt by rule
36 criteria to be applied by employing counties, cities, agencies, and
37 the commission in determining whether an applicant is suitable for
38 employment pursuant to this section.

39 (b) To assist in developing these rules regarding disqualifying
40 criteria, the commission shall seek input from individuals who have

1 experience in conducting or reviewing law enforcement background
2 investigations, misconduct or human resource complaints,
3 investigations, or disciplinary decisions, or who provide community
4 perspective, which may include:

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

8 (ii) Individuals who serve as or have served as polygraph
9 examiners or psychologists for law enforcement background
10 investigations;

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

13 (iv) Representatives from the Washington association of sheriffs
14 and police chiefs, the Washington state patrol, the Washington
15 fraternal order of police, the Washington council of police and
16 sheriffs, and a union representing the interests of peace officers
17 and corrections officers; and

18 (v) Community representatives, including a community member from
19 Eastern Washington.

20 (c) The rules shall include criteria that must result in
21 mandatory disqualification, which must include all grounds for the
22 denial or revocation of an officer's certification under RCW
23 43.101.105(2), and criteria that may result in disqualification,
24 which must include all grounds for the denial, suspension, or
25 revocation of an officer's certification under RCW 43.101.105(3),
26 with factors to be considered by the agency or by the commission in
27 making that discretionary determination.

28 (10) As used in this section, "applicant" includes a person
29 applying to serve as a new officer, a lateral transfer within the
30 state or from another state from a law enforcement or corrections
31 agency to a different law enforcement or corrections agency, or an
32 officer moving from a corrections division to a law enforcement
33 division or vice versa within the same agency unless exempted by the
34 commission, or a person seeking appointment or election as a sheriff,
35 chief, or marshal.

36 **Sec. 11.** RCW 36.28.020 and 2009 c 549 s 4051 are each amended to
37 read as follows:

38 Every deputy sheriff shall possess all the power, and may perform
39 any of the duties, prescribed by law to be performed by the sheriff,

1 and shall serve or execute, according to law, all process, writs,
2 precepts, and orders, issued by lawful authority.

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

10 **Sec. 12.** RCW 43.101.380 and 2021 c 323 s 20 are each amended to
11 read as follows:

12 (1) The procedures governing adjudicative proceedings before
13 agencies under chapter 34.05 RCW, the administrative procedure act,
14 govern hearings before the commission and govern all other actions
15 before the commission unless otherwise provided in this chapter. The
16 standard of proof in actions before the commission is a preponderance
17 of the evidence.

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

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

27 (a) When a hearing is requested in relation to a certification
28 action of a Washington peace officer, the commission shall appoint to
29 the panel: (i) One police chief or sheriff from an agency not a
30 current or past employer of the peace officer; (ii) one certified
31 Washington peace officer who is at or below the level of first line
32 supervisor and who has at least ten years' experience as a peace
33 officer; (iii) one civilian member of the commission as appointed
34 under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of
35 the public who is not a prosecutor, defense attorney, judge, or law
36 enforcement officer; and (v) one person with expertise and background
37 in police accountability who is not a current or former peace officer
38 or corrections officer.

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

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

23 (d) Persons appointed to hearings panels by the commission shall,
24 in relation to any certification action on which they sit, have the
25 powers, duties, and immunities, and are entitled to the emoluments,
26 including travel expenses in accordance with RCW 43.03.050 and
27 43.03.060, of regular commission members.

28 (4) In decertification matters where there was a due process
29 hearing or a disciplinary appeals hearing following an investigation
30 by a law enforcement agency, or a criminal hearing regarding the
31 alleged misconduct, the hearings panel need not redetermine the
32 underlying facts but may make its determination based solely on
33 review of the records and decision relating to those proceedings and
34 any investigative or summary materials from the administrative law
35 judge, legal counsel, and commission staff. However, the hearings
36 panel may, in its discretion, consider additional evidence to
37 determine whether misconduct occurred. The hearings panel shall, upon
38 written request by the subject peace officer or corrections officer,
39 allow the peace officer or corrections officer to present additional
40 evidence of extenuating circumstances.

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

9 (6) The hearings, but not the deliberations of the hearings
10 panel, are open to the public. The transcripts, admitted evidence,
11 and written decisions of the hearings panel on behalf of the
12 commission are not confidential or exempt from public disclosure, and
13 are subject to subpoena and discovery proceedings in civil actions.

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

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

20 **Sec. 13.** RCW 43.101.400 and 2021 c 323 s 21 are each amended to
21 read as follows:

22 (1) Except as provided under subsection (2) of this section, all
23 files, papers, and other information obtained by the commission as
24 part of ((an initial)) a background investigation pursuant to RCW
25 43.101.095 ((-2) and (-4)), 36.28.025, and 35.21.333 are confidential
26 and exempt from public disclosure. Such records are not subject to
27 public disclosure, subpoena, or discovery proceedings in any civil
28 action, except as provided in RCW 43.101.380(6) or which become part
29 of the record in a suspension or decertification ((matter)) hearing.

30 (2) Records which are otherwise confidential and exempt from
31 public disclosure under subsection (1) of this section may be
32 reviewed and copied: (a) By the officer involved or the officer's
33 counsel or authorized representative, who may review the officer's
34 file after the officer has been served with a statement of charges
35 pursuant to RCW 43.101.155, and may submit any additional exculpatory
36 or explanatory evidence, statements, or other information, any of
37 which must be included in the file; (b) by a duly authorized
38 representative of (i) the agency of termination, or (ii) a current
39 employing law enforcement or corrections agency, which may review and

1 copy its employee-officer's file; or (c) by a representative of or
2 investigator for the commission.

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

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

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

27 NEW SECTION. **Sec. 14.** The following acts or parts of acts are
28 each repealed:

29 (1) RCW 35.66.010 (Authority to establish) and 1965 c 7 s
30 35.66.010;

31 (2) RCW 35.66.020 (Appointment) and 1965 c 7 s 35.66.020;

32 (3) RCW 35.66.030 (Assistance by police) and 1965 c 7 s
33 35.66.030;

34 (4) RCW 35.66.040 (Compensation) and 2007 c 218 s 68 & 1965 c 7 s
35 35.66.040;

36 (5) RCW 35.66.050 (Persons under arrest—Separate quarters) and
37 1973 1st ex.s. c 154 s 53 & 1965 c 7 s 35.66.050; and

38 (6) RCW 36.28.011 (Duty to make complaint) and 1963 c 4 s
39 36.28.011.

1 NEW SECTION. **Sec. 15.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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