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**SUBSTITUTE SENATE BILL 5089**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Kuderer, Pedersen, Darneille, Das, Dhingra, Hasegawa, Hunt, Liias, Nguyen, and Wilson, C.)

AN ACT Relating to peace officer hiring and certification; amending RCW 41.12.070, 41.12.100, 41.14.100, 41.14.130, 43.43.020, and 43.43.360; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature believes the diversity of the police force is essential to maintaining public trust and confidence in the criminal justice system. With this act, the legislature intends to provide for a diverse workforce with a variety of experiences and backgrounds that will ensure officers have the maturity and empathy to serve the citizens of Washington. The legislature is persuaded by research evidencing that adolescent brain development continues until a person reaches the age of 26. Law enforcement officers are entrusted with the tools and ability to effect life and liberty. We believe that increasing the qualification age of an officer to age 23 will help ensure the requisite maturity for these responsibilities.

**Sec.**  RCW 41.12.070 and 2018 c 32 s 2 are each amended to read as follows:

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

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

(2) An applicant for a position with a law enforcement agency must be at least 23 years of age and:

(a) Have an associate of arts or science degree;

(b) Complete an associate of arts or science degree prior to the end of the person's probationary period as provided in RCW 41.12.100; or

(c) Have two years' full-time experience working in domestic violence services, mental or behavioral health care, homelessness programs, crisis intervention services, or other social services professions.

(3) An application for a position with a law enforcement agency may be rejected if the law enforcement agency deems that it does not have the resources to conduct the background investigation required pursuant to chapter 43.101 RCW. Resources means materials, funding, and staff time.

(4)(a) Consistent with the scoring scheme outlined in RCW 41.04.010, a hiring law enforcement agency shall add a maximum of 10 percent to the passing mark, grade, or rating of any applicant for any of the following qualifications:

(i) Proficiency, as defined by the local jurisdiction, in a language other than English; or

(ii) Two or more years of professional or volunteer experience in the peace corps, AmeriCorps, domestic violence counseling, mental or behavioral health care, homelessness programs, or other social services professions.

(b) Preference points under this subsection and RCW 41.04.010 may not be aggregated to exceed more than 10 percent of the applicant's examination score.

(5) Nothing in this section impairs an applicant's rights under state antidiscrimination laws.

**Sec.**  RCW 41.12.100 and 2007 c 218 s 15 are each amended to read as follows:

(1) Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

(2) Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and said appointing power shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

(3) To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of ((~~three to six months'~~)) probationary service, as may be provided in the rules of the civil service commission during which the appointing power may terminate the employment of the person certified to him or her, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him or her unfit or unsatisfactory for service in the department, whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete. The probationary period of a person appointed or hired:

(a) As a new law enforcement officer, must be no less than 24 months from the date of successful completion of the basic law enforcement academy;

(b) In any other position, must be between three and six months from the date of appointment or hire.

**Sec.**  RCW 41.14.100 and 2018 c 32 s 3 are each amended to read as follows:

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

(2) An applicant for a position with a law enforcement agency must be at least 23 years of age and:

(a) Have an associate of arts or science degree;

(b) Complete an associate of arts or science degree prior to the end of the person's probationary period as provided in RCW 41.14.130; or

(c) Have two years' full-time experience working in domestic violence services, mental or behavioral health care, homelessness programs, crisis intervention services, or other social services professions.

(3) An application for a position with a law enforcement agency may be rejected if the law enforcement agency deems that it does not have the resources to conduct the background investigation required pursuant to chapter 43.101 RCW. Resources means materials, funding, and staff time.

(4)(a) Consistent with the scoring scheme outlined in RCW 41.04.010, a hiring law enforcement agency shall add a maximum of 10 percent to the passing mark, grade, or rating of any applicant for any of the following qualifications:

(i) Proficiency, as defined by the local jurisdiction, in a language other than English; or

(ii) Two or more years of professional or volunteer experience in the peace corps, AmeriCorps, domestic violence counseling, mental or behavioral health care, homelessness programs, or other social services professions.

(b) Preference points under this subsection and RCW 41.04.010 may not be aggregated to exceed more than 10 percent of the applicant's examination score.

(5) Nothing in this section impairs an applicant's rights under state antidiscrimination laws.

**Sec.**  RCW 41.14.130 and 2020 c 14 s 2 are each amended to read as follows:

(1) Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall requisition the commission for the names and addresses of persons eligible for appointment thereto. Before a requisition can be made, the appointing authority shall give employees of the appointing authority who are in layoff status or who have been notified of an intended layoff an opportunity to qualify for any class within the office of the appointing authority. The commission shall certify the names of the five persons highest on the eligible list for the class to which the vacant position has been allocated, who are willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the names of the five persons standing highest on the list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint a person from those certified to the vacant position.

(2) To enable the appointing power to exercise a greater degree of choice in the filling of positions, no appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year's probationary service, as may be provided in the rules of the civil service commission, during which the appointing power may terminate the employment of the person appointed, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems such person unfit or unsatisfactory for service in the office of county sheriff. Thereupon the appointing power shall again requisition the commission for the names and addresses of persons eligible for appointment in the manner provided by this section and the person appointed in the manner provided by this section shall likewise enter upon said duties for the probationary period, until some person is found who is deemed fit for appointment, employment, or promotion whereupon the appointment, employment, or promotion shall be deemed complete. The probationary period of a person appointed or hired:

(a) As a new law enforcement officer, must be no less than 24 months from the date of successful completion of the basic law enforcement academy;

(b) In any other position, must be no less than one year from the date of appointment or hire.

**Sec.**  RCW 43.43.020 and 2005 c 434 s 4 are each amended to read as follows:

(1) The governor, with the advice and consent of the senate, shall appoint the chief of the Washington state patrol, determine his compensation, and may remove him at will.

(2)(a) The chief shall appoint a sufficient number of competent persons to act as Washington state patrol officers, may remove them for cause, as provided in this chapter, and shall make promotional appointments, determine their compensation, and define their rank and duties, as hereinafter provided.

(b) Before a person may be appointed to act as a Washington state patrol officer, in addition to the requirements in (c) of this subsection, the person shall meet the minimum standards for employment with the Washington state patrol, including successful completion of a psychological examination and polygraph examination or similar assessment procedure administered by the chief or his or her designee in accordance with the requirements of RCW 43.101.095(2).

(c) A person appointed as a Washington state patrol officer must be at least 23 years of age and:

(i) Have an associate of arts or science degree;

(ii) Complete an associate of arts or science degree prior to the end of the person's probationary period as provided in RCW 43.43.360; or

(iii) Have two years' full-time experience working in domestic violence services, mental or behavioral health care, homelessness programs, crisis intervention services, or other social services professions.

(3)(a) Consistent with the scoring scheme outlined in RCW 41.04.010, a hiring law enforcement agency shall add a maximum of 10 percent to the passing mark, grade, or rating of any applicant for any of the following qualifications:

(i) Proficiency, as defined by the local jurisdiction, in a language other than English; or

(ii) Two or more years of professional or volunteer experience in the peace corps, AmeriCorps, domestic violence counseling, mental or behavioral health care, homelessness programs, or other social services professions.

(b) Preference points under this subsection and RCW 41.04.010 may not be aggregated to exceed more than 10 percent of the applicant's examination score.

(4) The chief may appoint employees of the Washington state patrol to serve as special deputies, with such restricted police authority as the chief shall designate as being necessary and consistent with their assignment to duty. Such appointment and conferral of authority shall not qualify said employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

(5) The chief may personally appoint, with the consent of the state treasurer, employees of the office of the state treasurer who are qualified under the standards of the criminal justice training commission, or who have comparable training and experience, to serve as special deputies. The law enforcement powers of any special deputies appointed in the office of the state treasurer shall be designated by the chief and shall be restricted to those powers necessary to provide for statewide security of the holdings or property of or under the custody of the office of the state treasurer. These appointments may be revoked by the chief at any time and shall be revoked upon the written request of the state treasurer or by operation of law upon termination of the special deputy's employment with the office of the state treasurer or thirty days after the chief who made the appointment leaves office. The chief shall be civilly immune for the acts of such special deputies. Such appointment and conferral of authority shall not qualify such employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

**Sec.**  RCW 43.43.360 and 1984 c 141 s 5 are each amended to read as follows:

All newly appointed ((~~or promoted~~)) officers shall serve a probationary period of ((~~one year after appointment or promotion~~)) 24 months from the date of successful completion of the basic law enforcement academy and all promoted officers shall serve a probationary period of 12 months from the date of promotion, whereupon their probationary status shall terminate, and they shall acquire regular status in the particular grade, unless given notice in writing to the contrary by the chief prior to the expiration of the probationary period.

NEW SECTION. **Sec.**  Any provision in a collective bargaining agreement or other agreement entered into or amended after the effective date of this section that is contrary to the provisions of this act is void and unenforceable. No jurisdiction's law, policies, rules, contracts, or other agreements may contravene any of this act.

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