

2 **HB 1062** - S AMD 241

3 By Senators Costa, Kline and Long

4 PULLED 04/06/01

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 43.101.010 and 1981 c 132 s 2 are each amended to
8 read as follows:

9 When used in this chapter:

10 (1) The term "commission" means the Washington state criminal
11 justice training commission.

12 (2) The term "boards" means the education and training standards
13 boards, the establishment of which are authorized by this chapter.

14 (3) The term "criminal justice personnel" means any person who
15 serves in a county, city, state, or port commission agency engaged in
16 crime prevention, crime reduction, or enforcement of the criminal law.

17 (4) The term "law enforcement personnel" means any public employee
18 or volunteer having as a primary function the enforcement of criminal
19 laws in general or any employee or volunteer of, or any individual
20 commissioned by, any municipal, county, state, or combination thereof,
21 agency having as its primary function the enforcement of criminal laws
22 in general as distinguished from an agency possessing peace officer
23 powers, the primary function of which is the implementation of
24 specialized subject matter areas. For the purposes of this subsection
25 "primary function" means that function to which the greater allocation
26 of resources is made.

27 (5) The term "correctional personnel" means any employee or
28 volunteer who by state, county, municipal, or combination thereof,
29 statute has the responsibility for the confinement, care, management,
30 training, treatment, education, supervision, or counseling of those
31 individuals whose civil rights have been limited in some way by legal
32 sanction.

33 (6) A peace officer is "convicted" at the time a plea of guilty has
34 been accepted, or a verdict of guilty or finding of guilt has been
35 filed, notwithstanding the pendency of any future proceedings,
36 including but not limited to sentencing, posttrial or postfact-finding

1 motions and appeals. "Conviction" includes a deferral of sentence and
2 also includes the equivalent disposition by a court in a jurisdiction
3 other than the state of Washington.

4 (7) "Discharged for disqualifying misconduct" means terminated from
5 employment for: (a) Conviction of (i) any crime committed under color
6 of authority as a peace officer, (ii) any crime involving dishonesty or
7 false statement within the meaning of Evidence Rule 609(a), (iii) the
8 unlawful use or possession of a controlled substance, or (iv) any other
9 crime the conviction of which disqualifies a Washington citizen from
10 the legal right to possess a firearm under state or federal law; (b)
11 conduct that would constitute any of the crimes addressed in (a) of
12 this subsection; or (c) knowingly making materially false statements
13 during disciplinary investigations, where the false statements are the
14 sole basis for the termination.

15 (8) A peace officer is "discharged for disqualifying misconduct"
16 within the meaning of subsection (7) of this section under the ordinary
17 meaning of the term and when the totality of the circumstances support
18 a finding that the officer resigned in anticipation of discipline,
19 whether or not the misconduct was discovered at the time of
20 resignation, and when such discipline, if carried forward, would more
21 likely than not have led to discharge for disqualifying misconduct
22 within the meaning of subsection (7) of this section.

23 (9) When used in context of proceedings referred to in this
24 chapter, "final" means that the peace officer has exhausted all
25 available civil service appeals, collective bargaining remedies, and
26 all other such direct administrative appeals, and the officer has not
27 been reinstated as the result of the action. Finality is not affected
28 by the pendency or availability of state or federal administrative or
29 court actions for discrimination, or by the pendency or availability of
30 any remedies other than direct civil service and collective bargaining
31 remedies.

32 (10) "Peace officer" means any law enforcement personnel subject to
33 the basic law enforcement training requirement of RCW 43.101.200 and
34 any other requirements of that section, and police service dogs subject
35 to requirements adopted under this act, notwithstanding any waiver or
36 exemption granted by the commission, and notwithstanding the statutory
37 exemption based on date of initial hire under RCW 43.101.200.
38 Commissioned officers of the Washington state patrol, whether they have
39 been or may be exempted by rule of the commission from the basic

1 training requirement of RCW 43.101.200, are included as peace officers
2 for purposes of this chapter. Fish and wildlife officers with
3 enforcement powers for all criminal laws under RCW 77.12.055 are peace
4 officers for purposes of this chapter.

5 NEW SECTION. Sec. 2. (1) As a condition of continuing employment
6 as peace officers, all Washington peace officers: (a) Shall timely
7 obtain certification as peace officers, or timely obtain certification
8 for exemption therefrom, by meeting all requirements of RCW 43.101.200,
9 as that section is administered under the rules of the commission, as
10 well by meeting any additional requirements under this chapter; and (b)
11 shall maintain the basic certification as peace officers under this
12 chapter. The commission shall certify peace officers who have
13 satisfied, or have been exempted by statute or by rule from, the basic
14 training requirements of RCW 43.101.200 on or before the effective date
15 of this section. Thereafter, the commission may revoke certification
16 pursuant to this chapter.

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

25 (3) As a prerequisite to certification, as well as a prerequisite
26 to pursuit of a hearing under section 9 of this act, a peace officer
27 must, on a form devised or adopted by the commission, authorize the
28 release to the commission of his or her personnel files, termination
29 papers, criminal investigation files, or other files, papers, or
30 information that are directly related to a certification matter or
31 decertification matter before the commission.

32 NEW SECTION. Sec. 3. Upon request by a peace officer's employer
33 or on its own initiative, the commission may deny or revoke
34 certification of any peace officer, after written notice and hearing,
35 if a hearing is timely requested by the peace officer under section 9
36 of this act, based upon a finding of one or more of the following
37 conditions:

1 (1) The peace officer has failed to timely meet all requirements
2 for obtaining a certificate of basic law enforcement training, a
3 certificate of basic law enforcement training equivalency, or a
4 certificate of exemption from the training;

5 (2) The peace officer has knowingly falsified or omitted material
6 information on an application for training or certification to the
7 commission;

8 (3) The peace officer has been convicted at any time of a felony
9 offense under the laws of this state or has been convicted of a federal
10 or out-of-state offense comparable to a felony under the laws of this
11 state;

12 (4) The peace officer has been discharged for disqualifying
13 misconduct, the discharge is final, and some or all of the acts or
14 omissions forming the basis for the discharge proceedings occurred on
15 or after the effective date of this section;

16 (5) The peace officer's certificate was previously issued by
17 administrative error on the part of the commission; or

18 (6) The peace officer has interfered with an investigation or
19 action for denial or revocation of certificate by: (a) Knowingly
20 making a materially false statement to the commission; or (b) in any
21 matter under investigation by or otherwise before the commission,
22 tampering with evidence or tampering with or intimidating any witness.

23 NEW SECTION. **Sec. 4.** (1) A person denied a certification based
24 upon dismissal or withdrawal from a basic law enforcement academy for
25 any reason not also involving discharge for disqualifying misconduct is
26 eligible for readmission and certification upon meeting standards
27 established in rules of the commission, which rules may provide for
28 probationary terms on readmission.

29 (2) A person whose certification is denied or revoked based upon
30 prior administrative error of issuance, failure to cooperate, or
31 interference with an investigation is eligible for certification upon
32 meeting standards established in rules of the commission, rules which
33 may provide for a probationary period of certification in the event of
34 reinstatement of eligibility.

35 (3) A person whose certification is denied or revoked based upon a
36 felony criminal conviction is not eligible for certification at any
37 time.

1 (4) A peace officer whose certification is denied or revoked based
2 upon discharge for disqualifying misconduct, but not also based upon a
3 felony criminal conviction, may, five years after the revocation or
4 denial, petition the commission for reinstatement of the certificate or
5 for eligibility for reinstatement. The commission shall hold a hearing
6 on the petition to consider reinstatement, and the commission may allow
7 reinstatement based upon standards established in rules of the
8 commission. If the certificate is reinstated or eligibility for
9 certification is determined, the commission may establish a
10 probationary period of certification.

11 (5) A peace officer whose certification is revoked based solely
12 upon a criminal conviction may petition the commission for
13 reinstatement immediately upon a final judicial reversal of the
14 conviction. The commission shall hold a hearing on request to consider
15 reinstatement, and the commission may allow reinstatement based on
16 standards established in rules of the commission. If the certificate
17 is reinstated or if eligibility for certification is determined, the
18 commission may establish a probationary period of certification.

19 NEW SECTION. **Sec. 5.** A peace officer's certification lapses
20 automatically when there is a break of more than twenty-four
21 consecutive months in the officer's service as a full-time law
22 enforcement officer. A break in full-time law enforcement service
23 which is due solely to the pendency of direct review or appeal from a
24 disciplinary discharge, or to the pendency of a work-related injury,
25 does not cause a lapse in certification. The officer may petition the
26 commission for reinstatement of certification. Upon receipt of a
27 petition for reinstatement of a lapsed certificate, the commission
28 shall determine under this chapter and any applicable rules of the
29 commission if the peace officer's certification status is to be
30 reinstated, and the commission shall also determine any requirements
31 which the officer must meet for reinstatement. The commission may adopt
32 rules establishing requirements for reinstatement.

33 NEW SECTION. **Sec. 6.** Upon termination of a peace officer for any
34 reason, including resignation, the agency of termination shall, within
35 fifteen days of the termination, notify the commission on a personnel
36 action report form provided by the commission. The agency of
37 termination shall, upon request of the commission, provide such

1 additional documentation or information as the commission deems
2 necessary to determine whether the termination provides grounds for
3 revocation under section 3 of this act. The commission shall maintain
4 these notices in a permanent file, subject to section 12 of this act.

5 NEW SECTION. **Sec. 7.** In addition to its other powers granted
6 under this chapter, the commission has authority and power to:

7 (1) Adopt, amend, or repeal rules as necessary to carry out this
8 chapter;

9 (2) Issue subpoenas and administer oaths in connection with
10 investigations, hearings, or other proceedings held under this chapter;

11 (3) Take or cause to be taken depositions and other discovery
12 procedures as needed in investigations, hearings, and other proceedings
13 held under this chapter;

14 (4) Appoint members of a hearings board as provided under section
15 10 of this act;

16 (5) Enter into contracts for professional services determined by
17 the commission to be necessary for adequate enforcement of this
18 chapter;

19 (6) Grant, deny, or revoke certification of peace officers under
20 the provisions of this chapter;

21 (7) Designate individuals authorized to sign subpoenas and
22 statements of charges under the provisions of this chapter; and

23 (8) Employ such investigative, administrative, and clerical staff
24 as necessary for the enforcement of this chapter.

25 NEW SECTION. **Sec. 8.** A law enforcement officer or duly authorized
26 representative of a law enforcement agency may submit a written
27 complaint to the commission charging that a peace officer's certificate
28 should be denied or revoked, and specifying the grounds for the charge.
29 Filing a complaint does not make a complainant a party to the
30 commission's action. The commission has sole discretion whether to
31 investigate a complaint, and the commission has sole discretion whether
32 to investigate matters relating to certification, denial of
33 certification, or revocation of certification on any other basis,
34 without restriction as to the source or the existence of a complaint.
35 A person who files a complaint in good faith under this section is
36 immune from suit or any civil action related to the filing or the
37 contents of the complaint.

1 NEW SECTION. **Sec. 9.** (1) If the commission determines, upon
2 investigation, that there is probable cause to believe that a peace
3 officer's certification should be denied or revoked under section 3 of
4 this act, the commission must prepare and serve upon the officer a
5 statement of charges. Service on the officer must be by mail or by
6 personal service on the officer. Notice of the charges must also be
7 mailed to or otherwise served upon the officer's agency of termination
8 and any current law enforcement agency employer. The statement of
9 charges must be accompanied by a notice that to receive a hearing on
10 the denial or revocation, the officer must, within sixty days of
11 communication of the statement of charges, request a hearing before the
12 hearings board appointed under section 10 of this act. Failure of the
13 officer to request a hearing within the sixty-day period constitutes a
14 default, whereupon the commission may enter an order under RCW
15 34.05.440.

16 (2) If a hearing is requested, the date of the hearing must be
17 scheduled not earlier than ninety days nor later than one hundred
18 eighty days after communication of the statement of charges to the
19 officer; the one hundred eighty day period may be extended on mutual
20 agreement of the parties or for good cause. The commission shall give
21 written notice of hearing at least twenty days prior to the hearing,
22 specifying the time, date, and place of hearing.

23 NEW SECTION. **Sec. 10.** (1) The procedures governing adjudicative
24 proceedings before agencies under chapter 34.05 RCW, the administrative
25 procedure act, govern hearings before the commission and govern all
26 other actions before the commission unless otherwise provided in this
27 chapter. The standard of proof in actions before the commission is
28 clear, cogent, and convincing evidence.

29 (2) On all appeals brought under section 9 of this act, a five-
30 member hearings panel shall both hear the case and make the
31 commission's final administrative decision. Members of the commission
32 or the board on law enforcement training standards and education may
33 but need not be appointed to the hearings panels. The commission shall
34 appoint as follows two or more panels to hear appeals from
35 decertification actions:

36 (a) When an appeal is filed in relation to decertification of a
37 Washington peace officer who is not a peace officer of the Washington
38 state patrol, the commission shall appoint to the panel: (i) One

1 police chief; (ii) one sheriff; (iii) two peace officers who are at or
2 below the level of first line supervisor, who are from city or county
3 law enforcement agencies, and who have at least ten years' experience
4 as peace officers; and (iv) one person who is not currently a peace
5 officer and who represents a community college or four-year college or
6 university.

7 (b) When an appeal is filed in relation to decertification of a
8 peace officer of the Washington state patrol, the commission shall
9 appoint to the panel: (i) Either one police chief or one sheriff; (ii)
10 one administrator of the state patrol; (iii) one peace officer who is
11 at or below the level of first line supervisor, who is from a city or
12 county law enforcement agency, and who has at least ten years'
13 experience as a peace officer; (iv) one state patrol officer who is at
14 or below the level of first line supervisor, and who has at least ten
15 years' experience as a peace officer; and (v) one person who is not
16 currently a peace officer and who represents a community college or
17 four-year college or university.

18 (c) Persons appointed to hearings panels by the commission shall,
19 in relation to any decertification matter on which they sit, have the
20 powers, duties, and immunities, and are entitled to the emoluments,
21 including travel expenses in accordance with RCW 43.03.050 and
22 43.03.060, of regular commission members.

23 (3) Where the charge upon which revocation or denial is based is
24 that a peace officer was "discharged for disqualifying misconduct," and
25 the discharge is "final," within the meaning of section 3(4) of this
26 act, and the officer received a civil service hearing or arbitration
27 hearing culminating in an affirming decision following separation from
28 service by the employer, the hearings panel may revoke or deny
29 certification if the hearings panel determines that the discharge
30 occurred and was based on disqualifying misconduct; the hearings panel
31 need not redetermine the underlying facts but may make this
32 determination based solely on review of the records and decision
33 relating to the employment separation proceeding. However, the
34 hearings panel may, in its discretion, consider additional evidence to
35 determine whether such a discharge occurred and was based on such
36 disqualifying misconduct. The hearings panel shall, upon written
37 request by the subject peace officer, allow the peace officer to
38 present additional evidence of extenuating circumstances.

1 Where the charge upon which revocation or denial of certification
2 is based is that a peace officer "has been convicted at any time of a
3 felony offense" within the meaning of section 3(3) of this act, the
4 hearings panel shall revoke or deny certification if it determines that
5 the peace officer was convicted of a felony. The hearings panel need
6 not redetermine the underlying facts but may make this determination
7 based solely on review of the records and decision relating to the
8 criminal proceeding. However, the hearings panel shall, upon the
9 panel's determination of relevancy, consider additional evidence to
10 determine whether the peace officer was convicted of a felony.

11 Where the charge upon which revocation or denial is based is under
12 section 3(1), (2), (5), or (6) of this act, the hearings panel shall
13 determine the underlying facts relating to the charge upon which
14 revocation or denial of certification is based.

15 (4) The commission's final administrative decision is subject to
16 judicial review under RCW 34.05.510 through 34.05.598.

17 NEW SECTION. **Sec. 11.** The commission, its boards, and individuals
18 acting on behalf of the commission and its boards are immune from suit
19 in any civil or criminal action contesting or based upon proceedings or
20 other official acts performed in the course of their duties in the
21 administration and enforcement of this chapter.

22 NEW SECTION. **Sec. 12.** (1) Except as provided under subsection (2)
23 of this section, the following records of the commission are
24 confidential and exempt from public disclosure: (a) The contents of
25 personnel action reports filed under section 6 of this act; (b) all
26 files, papers, and other information obtained by the commission
27 pursuant to section 2(3) of this act; and (c) all investigative files
28 of the commission compiled in carrying out the responsibilities of the
29 commission under this chapter. Such records are not subject to public
30 disclosure, subpoena, or discovery proceedings in any civil action,
31 except as provided in subsection (5) of this section.

32 (2) Records which are otherwise confidential and exempt under
33 subsection (1) of this section may be reviewed and copied: (a) By the
34 officer involved or the officer's counsel or authorized representative,
35 who may review the officer's file and may submit any additional
36 exculpatory or explanatory evidence, statements, or other information,
37 any of which must be included in the file; (b) by a duly authorized

1 representative of (i) the agency of termination, or (ii) a current
2 employing law enforcement agency, which may review and copy its
3 employee-officer's file; or (c) by a representative of or investigator
4 for the commission.

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

14 (4) Upon a determination that a complaint is without merit, that a
15 personnel action report filed under section 6 of this act does not
16 merit action by the commission, or that a matter otherwise investigated
17 by the commission does not merit action, the commission shall purge
18 records addressed in subsection (1) of this section.

19 (5) The hearings, but not the deliberations, of the hearings board
20 are open to the public. The transcripts, admitted evidence, and
21 written decisions of the hearings board on behalf of the commission are
22 not confidential or exempt from public disclosure, and are subject to
23 subpoena and discovery proceedings in civil actions.

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

27 NEW SECTION. **Sec. 13.** It is the intent of sections 14 through 23
28 of this act to enhance public safety and the quality of law
29 enforcement. The legislature finds these goals may be achieved by
30 establishing a minimum standard of performance for working police
31 service dog teams and a procedure for certification of teams. The
32 legislature further finds it necessary to create an oversight mechanism
33 to promote efficient and responsible implementation of the
34 certification process.

35 NEW SECTION. **Sec. 14.** The definitions in this section apply
36 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Canine training standards board" or "board" means the board
2 established by the commission under section 17 of this act.

3 (2) "Certified" means a determination by the commission that a
4 police service dog team has met the minimum standard.

5 (3) "Commission" means the Washington state criminal justice
6 training commission.

7 (4) "Handler" means a person who is responsible for the routine
8 care, control, and utilization of a police service dog for law
9 enforcement purposes and is:

10 (a) Any commissioned law enforcement officer of an agency,
11 including a state, county, city, municipality, or a combination thereof
12 or an employee of the Washington state department of corrections;

13 (b) A person contracted to provide law enforcement services;

14 (c) An employee of a local correctional facility; or

15 (d) In the case of an accelerant detection dog, the state fire
16 marshal's designee or an employee of the fire department, city, or
17 county authorized by the fire chief to be the dog's handler.

18 (5) "Law enforcement purposes" means detection of contraband or
19 evidence and apprehension of criminal suspects.

20 (6) "Master trainer" means a person who meets the criteria
21 established in rule by the commission following consultation with
22 individuals and groups with experience and expertise in training and
23 handling police service dogs.

24 (7) "Police service detection dog" means a dog assigned or used by
25 a handler solely to detect contraband or arson by-products for law
26 enforcement purposes.

27 (8) "Police service dog" means a dog assigned or used by a handler
28 for law enforcement purposes.

29 (9) "Police service dog team" or "team" means a dog and handler
30 that is certified as a team.

31 **NEW SECTION.** **Sec. 15.** (1) A police service dog handler may not
32 use a police service dog for law enforcement purposes unless the
33 handler and dog are certified as a team, except as otherwise provided
34 in this section.

35 (2) Any dog team provided to assist in law enforcement purposes is
36 exempt from the certification requirement of sections 14 through 23 of
37 this act only if: (a) The dog is owned by, and acts under the control
38 of, an agency of the federal government which engages in law

1 enforcement purposes; (b) the team is provided on a temporary basis not
2 exceeding forty-eight hours; and (c) the dog and its handler meet the
3 internal minimum performance standards of the agency of the federal
4 government which owns or controls the dog.

5 (3) If any law enforcement agency is, prior to August 1, 2003,
6 utilizing a police service dog and a handler for law enforcement
7 purposes, the agency may continue the use until March 1, 2004. After
8 March 1, 2004, the dog and handler must be certified as a team to be
9 used for law enforcement purposes.

10 (4) Any law enforcement agency that has not, prior to August 1,
11 2003, utilized a police service dog and a handler for law enforcement
12 purposes must obtain certification before deploying a team.

13 (5) Upon determination by the commission that a law enforcement
14 agency or the department of corrections has deployed a police service
15 dog and handler not certified pursuant to this chapter, the commission
16 may issue an order directing the agency or department to immediately
17 cease the unauthorized deployment.

18 (6) If the agency or department does not discontinue the
19 unauthorized deployment, the commission may seek appropriate injunctive
20 relief in the superior court of the county in which the agency or
21 department is located.

22 (7) Police service detection dogs are exempt from the certification
23 requirement set forth in this section unless the commission extends the
24 certification requirement to these dogs by rule.

25 NEW SECTION. **Sec. 16.** (1) The commission is directed to develop
26 and adopt a minimum performance standard for each category of police
27 service dog and handler, with the categories being derived from the law
28 enforcement functions that the police service dogs and handlers
29 perform. Each police service dog and handler must meet the standard
30 for its category in order to become a team.

31 (2) The commission is directed to implement a process through which
32 police service dogs and their handlers will be tested for
33 certification. The commission is authorized to charge a fee for the
34 purpose of conducting certification tests.

35 (3) The commission shall establish minimum training hours for
36 police service dogs and handlers that must be completed prior to
37 testing for certification. Prior to testing a police service dog and
38 a handler for certification, the chief of police, sheriff, secretary of

1 corrections, or chief of the Washington state patrol must submit an
2 affidavit verifying that the required hours of training have been
3 successfully completed by the police service dog and handler.

4 (4) The initial certification of police service dog teams is valid
5 for one year. Recertification shall be valid for a period of time as
6 determined by the commission.

7 NEW SECTION. **Sec. 17.** (1) The commission is directed to create
8 the canine training standards board. The commission is directed to
9 endeavor to ensure the composition of the board will include persons
10 experienced with patrol, detector, and tracking police service dogs.
11 The board shall, in consultation with the board on law enforcement
12 training standards and education, recommend to the commission minimum
13 performance standards and develop model training and performance
14 standards for police service dogs and handlers. The model training and
15 model performance standards may be used by local jurisdictions in
16 developing their own canine programs.

17 (2) The board shall examine the option of requiring certification
18 of police service detection dogs and make recommendations to the
19 commission.

20 (3) The board shall be comprised of:

21 (a) A representative of the Washington state patrol with police
22 service dog experience;

23 (b) A representative of the department of corrections with police
24 service dog experience;

25 (c) A representative of a nonprofit organization in Washington with
26 expertise and experience in the training and evaluating of patrol,
27 detector, and tracking police service dogs and handlers;

28 (d) A representative of a nationwide nonprofit organization with
29 experience and expertise in the humane treatment of dogs;

30 (e) A master trainer from a county with a population of two hundred
31 fifty thousand or more appointed by the Washington association of
32 sheriffs and police chiefs in consultation with the Washington council
33 of police and sheriffs and the bargaining unit representing
34 commissioned officers in any county with a population of one million or
35 more;

36 (f) A representative of the county legislative authority appointed
37 by the presiding officer of the Washington association of counties from
38 a county with a population of two hundred fifty thousand or more that

1 deploys a police service dog and handler for law enforcement purposes
2 and, after March 1, 2004, is certified as a team;

3 (g) A master trainer from a city with a population of one hundred
4 thousand or more appointed by the Washington association of sheriffs
5 and police chiefs in consultation with the Washington council of police
6 and sheriffs and the bargaining unit representing commissioned officers
7 in any city with a population of four hundred thousand or more;

8 (h) A representative of the association of Washington cities
9 appointed by the presiding officer of the association of Washington
10 cities from a city with a population of one hundred thousand or more
11 that deploys a police service dog and handler for law enforcement
12 purposes and, after March 1, 2004, is certified as a team;

13 (i) Two persons, one with police service dog experience, appointed
14 by the association of Washington cities from a city with a population
15 of less than one hundred thousand;

16 (j) Two persons, one with police service dog experience, appointed
17 by the Washington association of counties from a county with a
18 population of less than two hundred fifty thousand;

19 (k) One representative to be appointed by the governor.

20 Prior to making the appointments requiring police service dog
21 experience in (i) and (j) of this subsection, the Washington
22 association of counties and the association of Washington cities shall
23 consult with the Washington association of sheriffs and police chiefs
24 and the Washington council of police and sheriffs.

25 (4) The board is a class 1 group under RCW 43.03.220 except that
26 any member of the public appointed to the board is eligible for
27 compensation under RCW 43.03.240(2).

28 (5) The board shall cease to exist after the minimum performance
29 standards are developed and adopted by the commission and the model
30 training and model performance standards are created.

31 (6) The board shall hold its initial meeting not later than
32 November 1, 2001.

33 NEW SECTION. **Sec. 18.** (1) Any person claiming to be aggrieved by
34 an act relating to the certification of a police service dog team may,
35 personally or by his or her attorney, make, sign, and file with the
36 commission a complaint in writing under oath or by declaration. The
37 commission does not have jurisdiction to hear a complaint alleging

1 negligent conduct by a certified team while engaged in law enforcement
2 purposes.

3 (2) Any complaint filed pursuant to this section must be filed
4 within thirty days after the alleged act giving rise to the complaint
5 relating to certification of a police service dog team.

6 (3) After the filing of any complaint, the chairperson of the
7 commission shall refer it to the appropriate section of the
8 commission's staff for prompt investigation and ascertainment of the
9 facts alleged in the complaint. The results of the investigation shall
10 be reduced to written findings of fact and a copy shall be provided to
11 the complainant.

12 NEW SECTION. **Sec. 19.** (1) The entire file, including the
13 complaint and any and all findings made, shall be certified to the
14 chairperson of the commission. The chairperson of the commission may
15 thereupon request the appointment of an administrative law judge under
16 Title 34 RCW to hear the complaint if the chairperson believes from the
17 results of the investigation that there are reasonable grounds to
18 conclude that a violation of this chapter may have occurred. If the
19 chairperson requests the appointment of an administrative law judge, he
20 or she shall cause to be issued and served in the name of the
21 commission a written notice, together with a copy of the complaint, as
22 the same may have been amended, requiring the parties to appear and on
23 the complaint at a hearing before the administrative law judge, at a
24 time and place to be specified in such notice.

25 (2) The place of any such hearing may be the office of the
26 commission or another place designated by it. The case in support of
27 the complaint shall be presented at the hearing by counsel for the
28 commission: PROVIDED, That the complainant may retain independent
29 counsel and submit testimony and be fully heard. No member or employee
30 of the commission who previously participated in the denial of
31 certification shall participate in the hearing except as a witness, nor
32 shall the member or employee participate in the deliberations of the
33 administrative law judge in such case.

34 (3) The commission shall file a written answer to the complaint and
35 appear at the hearing in person or otherwise, with or without counsel,
36 and submit testimony and be fully heard. The commission has the right
37 to cross-examine the complainant.

1 (4) The administrative law judge conducting any hearing may permit
2 reasonable amendment to any complaint or answer. Testimony taken at
3 the hearing shall be under oath and recorded.

4 (5) If, upon all the evidence, the administrative law judge finds
5 that the commission has wrongfully denied certification, the
6 administrative law judge shall state findings of fact and shall issue
7 and file with the commission and cause to be served on the commission
8 an order requiring the commission to certify the police service dog
9 team.

10 (6) The final order of the administrative law judge shall include
11 a notice to the parties of the right to obtain judicial review of the
12 order by appeal in accordance with the provisions of RCW 34.05.510
13 through 34.05.598, and that such appeal must be served and filed within
14 thirty days after the service of the order on the parties.

15 (7) If, upon all the evidence, the administrative law judge finds
16 that the commission correctly denied certification, the administrative
17 law judge shall state findings of fact and shall similarly issue and
18 file an order dismissing the complaint.

19 NEW SECTION. **Sec. 20.** (1) Every police service dog used by law
20 enforcement or any other state or local governmental agency is required
21 to be identified by a microchip as defined in RCW 16.57.010(13) or
22 through the use of superior technology as designated by the commission.

23 (2) The microchip of any police service dog used by a state or
24 local governmental agency may not be removed except for medical
25 necessity. If it is necessary to remove the microchip, the reason for
26 the removal must be documented, entered into the data base created by
27 section 21 of this act, and a new microchip inserted unless the dog is
28 permanently retired from service.

29 NEW SECTION. **Sec. 21.** (1) The commission is directed to develop
30 and manage a centralized data base of information pertaining to all
31 police service dogs used by Washington state and local governmental
32 agencies. The data base shall be cumulative, updated, and contain the
33 following information for each police service dog:

- 34 (a) Identification as required in section 20(1) of this act;
- 35 (b) Name;
- 36 (c) Breed;
- 37 (d) Type of training:

- 1 (i) G = Generalist;
- 2 (ii) N = Narcotic;
- 3 (iii) B = Bomb;
- 4 (iv) Xn = Cross-trained narcotic;
- 5 (v) Xb = Cross-trained bomb;
- 6 (vi) O = Other;
- 7 (e) Date acquired;
- 8 (f) Source of acquisition:
 - 9 (i) Vendor name, address, and telephone number;
 - 10 (ii) Donated by private person, nonprofit entity, or other;
- 11 (g) Handler's name;
- 12 (h) Date of certification and recertifications;
 - 13 (i) Date and reason released from service.

14 (2) Except as provided in RCW 42.17.310, the commission shall make
15 this data base available through a web page and accessible by entering
16 a dog's identification number as required in section 20(1) of this act.

17 (3) All records pertaining to training, utilization, and
18 certification from acquisition to first certification pertaining to
19 police service dogs are required to be kept by the agency with
20 ownership of the police service dog and made available upon request.

21 NEW SECTION. **Sec. 22.** The commission shall adopt rules to
22 implement this chapter.

23 **Sec. 23.** RCW 42.17.310 and 2000 c 134 s 3, 2000 c 56 s 1, and 2000
24 c 6 s 5 are each reenacted and amended to read as follows:

25 (1) The following are exempt from public inspection and copying:

26 (a) Personal information in any files maintained for students in
27 public schools, patients or clients of public institutions or public
28 health agencies, or welfare recipients.

29 (b) Personal information in files maintained for employees,
30 appointees, or elected officials of any public agency to the extent
31 that disclosure would violate their right to privacy.

32 (c) Information required of any taxpayer in connection with the
33 assessment or collection of any tax if the disclosure of the
34 information to other persons would (i) be prohibited to such persons by
35 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
36 taxpayer's right to privacy or result in unfair competitive
37 disadvantage to the taxpayer.

1 (d) Specific intelligence information and specific investigative
2 records compiled by investigative, law enforcement, and penology
3 agencies, and state agencies vested with the responsibility to
4 discipline members of any profession, the nondisclosure of which is
5 essential to effective law enforcement or for the protection of any
6 person's right to privacy.

7 (e) Information revealing the identity of persons who are witnesses
8 to or victims of crime or who file complaints with investigative, law
9 enforcement, or penology agencies, other than the public disclosure
10 commission, if disclosure would endanger any person's life, physical
11 safety, or property. If at the time a complaint is filed the
12 complainant, victim or witness indicates a desire for disclosure or
13 nondisclosure, such desire shall govern. However, all complaints filed
14 with the public disclosure commission about any elected official or
15 candidate for public office must be made in writing and signed by the
16 complainant under oath.

17 (f) Test questions, scoring keys, and other examination data used
18 to administer a license, employment, or academic examination.

19 (g) Except as provided by chapter 8.26 RCW, the contents of real
20 estate appraisals, made for or by any agency relative to the
21 acquisition or sale of property, until the project or prospective sale
22 is abandoned or until such time as all of the property has been
23 acquired or the property to which the sale appraisal relates is sold,
24 but in no event shall disclosure be denied for more than three years
25 after the appraisal.

26 (h) Valuable formulae, designs, drawings, computer source code or
27 object code, and research data obtained by any agency within five years
28 of the request for disclosure when disclosure would produce private
29 gain and public loss.

30 (i) Preliminary drafts, notes, recommendations, and intra-agency
31 memorandums in which opinions are expressed or policies formulated or
32 recommended except that a specific record shall not be exempt when
33 publicly cited by an agency in connection with any agency action.

34 (j) Records which are relevant to a controversy to which an agency
35 is a party but which records would not be available to another party
36 under the rules of pretrial discovery for causes pending in the
37 superior courts.

1 (k) Records, maps, or other information identifying the location of
2 archaeological sites in order to avoid the looting or depredation of
3 such sites.

4 (l) Any library record, the primary purpose of which is to maintain
5 control of library materials, or to gain access to information, which
6 discloses or could be used to disclose the identity of a library user.

7 (m) Financial information supplied by or on behalf of a person,
8 firm, or corporation for the purpose of qualifying to submit a bid or
9 proposal for (i) a ferry system construction or repair contract as
10 required by RCW 47.60.680 through 47.60.750 or (ii) highway
11 construction or improvement as required by RCW 47.28.070.

12 (n) Railroad company contracts filed prior to July 28, 1991, with
13 the utilities and transportation commission under RCW 81.34.070, except
14 that the summaries of the contracts are open to public inspection and
15 copying as otherwise provided by this chapter.

16 (o) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided pursuant to
18 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
19 export projects pursuant to RCW 43.23.035.

20 (p) Financial disclosures filed by private vocational schools under
21 chapters 28B.85 and 28C.10 RCW.

22 (q) Records filed with the utilities and transportation commission
23 or attorney general under RCW 80.04.095 that a court has determined are
24 confidential under RCW 80.04.095.

25 (r) Financial and commercial information and records supplied by
26 businesses or individuals during application for loans or program
27 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
28 or during application for economic development loans or program
29 services provided by any local agency.

30 (s) Membership lists or lists of members or owners of interests of
31 units in timeshare projects, subdivisions, camping resorts,
32 condominiums, land developments, or common-interest communities
33 affiliated with such projects, regulated by the department of
34 licensing, in the files or possession of the department.

35 (t) All applications for public employment, including the names of
36 applicants, resumes, and other related materials submitted with respect
37 to an applicant.

38 (u) The residential addresses and residential telephone numbers of
39 employees or volunteers of a public agency which are held by the agency

1 in personnel records, employment or volunteer rosters, or mailing lists
2 of employees or volunteers.

3 (v) The residential addresses and residential telephone numbers of
4 the customers of a public utility contained in the records or lists
5 held by the public utility of which they are customers, except that
6 this information may be released to the division of child support or
7 the agency or firm providing child support enforcement for another
8 state under Title IV-D of the federal social security act, for the
9 establishment, enforcement, or modification of a support order.

10 (w)(i) The federal social security number of individuals governed
11 under chapter 18.130 RCW maintained in the files of the department of
12 health, except this exemption does not apply to requests made directly
13 to the department from federal, state, and local agencies of
14 government, and national and state licensing, credentialing,
15 investigatory, disciplinary, and examination organizations; (ii) the
16 current residential address and current residential telephone number of
17 a health care provider governed under chapter 18.130 RCW maintained in
18 the files of the department, if the provider requests that this
19 information be withheld from public inspection and copying, and
20 provides to the department an accurate alternate or business address
21 and business telephone number. On or after January 1, 1995, the
22 current residential address and residential telephone number of a
23 health care provider governed under RCW 18.130.040 maintained in the
24 files of the department shall automatically be withheld from public
25 inspection and copying unless the provider specifically requests the
26 information be released, and except as provided for under RCW
27 42.17.260(9).

28 (x) Information obtained by the board of pharmacy as provided in
29 RCW 69.45.090.

30 (y) Information obtained by the board of pharmacy or the department
31 of health and its representatives as provided in RCW 69.41.044,
32 69.41.280, and 18.64.420.

33 (z) Financial information, business plans, examination reports, and
34 any information produced or obtained in evaluating or examining a
35 business and industrial development corporation organized or seeking
36 certification under chapter 31.24 RCW.

37 (aa) Financial and commercial information supplied to the state
38 investment board by any person when the information relates to the
39 investment of public trust or retirement funds and when disclosure

1 would result in loss to such funds or in private loss to the providers
2 of this information.

3 (bb) Financial and valuable trade information under RCW 51.36.120.

4 (cc) Client records maintained by an agency that is a domestic
5 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
6 crisis center as defined in RCW 70.125.030.

7 (dd) Information that identifies a person who, while an agency
8 employee: (i) Seeks advice, under an informal process established by
9 the employing agency, in order to ascertain his or her rights in
10 connection with a possible unfair practice under chapter 49.60 RCW
11 against the person; and (ii) requests his or her identity or any
12 identifying information not be disclosed.

13 (ee) Investigative records compiled by an employing agency
14 conducting a current investigation of a possible unfair practice under
15 chapter 49.60 RCW or of a possible violation of other federal, state,
16 or local laws prohibiting discrimination in employment.

17 (ff) Business related information protected from public inspection
18 and copying under RCW 15.86.110.

19 (gg) Financial, commercial, operations, and technical and research
20 information and data submitted to or obtained by the clean Washington
21 center in applications for, or delivery of, program services under
22 chapter 70.95H RCW.

23 (hh) Information and documents created specifically for, and
24 collected and maintained by a quality improvement committee pursuant to
25 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
26 4.24.250, regardless of which agency is in possession of the
27 information and documents.

28 (ii) Personal information in files maintained in a data base
29 created under RCW 43.07.360.

30 (jj) Financial and commercial information requested by the public
31 stadium authority from any person or organization that leases or uses
32 the stadium and exhibition center as defined in RCW 36.102.010.

33 (kk) Names of individuals residing in emergency or transitional
34 housing that are furnished to the department of revenue or a county
35 assessor in order to substantiate a claim for property tax exemption
36 under RCW 84.36.043.

37 (ll) The names, residential addresses, residential telephone
38 numbers, and other individually identifiable records held by an agency
39 in relation to a vanpool, carpool, or other ride-sharing program or

1 service. However, these records may be disclosed to other persons who
2 apply for ride-matching services and who need that information in order
3 to identify potential riders or drivers with whom to share rides.

4 (mm) The personally identifying information of current or former
5 participants or applicants in a paratransit or other transit service
6 operated for the benefit of persons with disabilities or elderly
7 persons.

8 (nn) The personally identifying information of persons who acquire
9 and use transit passes and other fare payment media including, but not
10 limited to, stored value smart cards and magnetic strip cards, except
11 that an agency may disclose this information to a person, employer,
12 educational institution, or other entity that is responsible, in whole
13 or in part, for payment of the cost of acquiring or using a transit
14 pass or other fare payment media, or to the news media when reporting
15 on public transportation or public safety. This information may also
16 be disclosed at the agency's discretion to governmental agencies or
17 groups concerned with public transportation or public safety.

18 (oo) Proprietary financial and commercial information that the
19 submitting entity, with review by the department of health,
20 specifically identifies at the time it is submitted and that is
21 provided to or obtained by the department of health in connection with
22 an application for, or the supervision of, an antitrust exemption
23 sought by the submitting entity under RCW 43.72.310. If a request for
24 such information is received, the submitting entity must be notified of
25 the request. Within ten business days of receipt of the notice, the
26 submitting entity shall provide a written statement of the continuing
27 need for confidentiality, which shall be provided to the requester.
28 Upon receipt of such notice, the department of health shall continue to
29 treat information designated under this section as exempt from
30 disclosure. If the requester initiates an action to compel disclosure
31 under this chapter, the submitting entity must be joined as a party to
32 demonstrate the continuing need for confidentiality.

33 (pp) Records maintained by the board of industrial insurance
34 appeals that are related to appeals of crime victims' compensation
35 claims filed with the board under RCW 7.68.110.

36 (qq) Financial and commercial information supplied by or on behalf
37 of a person, firm, corporation, or entity under chapter 28B.95 RCW
38 relating to the purchase or sale of tuition units and contracts for the
39 purchase of multiple tuition units.

1 (rr) Any records of investigative reports prepared by any state,
2 county, municipal, or other law enforcement agency pertaining to sex
3 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
4 defined in RCW 71.09.020, which have been transferred to the Washington
5 association of sheriffs and police chiefs for permanent electronic
6 retention and retrieval pursuant to RCW 40.14.070(2)(b).

7 (ss) Credit card numbers, debit card numbers, electronic check
8 numbers, card expiration dates, or bank or other financial account
9 numbers supplied to an agency for the purpose of electronic transfer of
10 funds, except when disclosure is expressly required by law.

11 (tt) Financial information, including but not limited to account
12 numbers and values, and other identification numbers supplied by or on
13 behalf of a person, firm, corporation, limited liability company,
14 partnership, or other entity related to an application for a liquor
15 license, gambling license, or lottery retail license.

16 (uu) Records maintained by the employment security department and
17 subject to chapter 50.13 RCW if provided to another individual or
18 organization for operational, research, or evaluation purposes.

19 (vv) Individually identifiable information received by the work
20 force training and education coordinating board for research or
21 evaluation purposes.

22 (ww) Information collected pursuant to section 21(1)(d) (iii) and
23 (v) of this act.

24 (2) Except for information described in subsection (1)(c)(i) of
25 this section and confidential income data exempted from public
26 inspection pursuant to RCW 84.40.020, the exemptions of this section
27 are inapplicable to the extent that information, the disclosure of
28 which would violate personal privacy or vital governmental interests,
29 can be deleted from the specific records sought. No exemption may be
30 construed to permit the nondisclosure of statistical information not
31 descriptive of any readily identifiable person or persons.

32 (3) Inspection or copying of any specific records exempt under the
33 provisions of this section may be permitted if the superior court in
34 the county in which the record is maintained finds, after a hearing
35 with notice thereof to every person in interest and the agency, that
36 the exemption of such records is clearly unnecessary to protect any
37 individual's right of privacy or any vital governmental function.

38 (4) Agency responses refusing, in whole or in part, inspection of
39 any public record shall include a statement of the specific exemption

1 authorizing the withholding of the record (or part) and a brief
2 explanation of how the exemption applies to the record withheld.

3 NEW SECTION. **Sec. 24.** Sections 2 through 12 of this act are each
4 added to chapter 43.101 RCW.

5 NEW SECTION. **Sec. 25.** Sections 13 through 22 of this act
6 constitute a new chapter in Title 43 RCW.

7 NEW SECTION. **Sec. 26.** (1) Sections 1 through 12 and 24 of this
8 act take effect January 1, 2002.

9 (2) Sections 13 through 23 and 25 of this act take effect August 1,
10 2001."

11 **HB 1062** - S AMD 241
12 By Senators Costa, Kline and Long

13 PULLED 04/06/01

14 On page 1, line 1 of the title, after "officers;" strike the
15 remainder of the title and insert "amending RCW 43.101.010; reenacting
16 and amending RCW 42.17.310; adding new sections to chapter 43.101 RCW;
17 adding a new chapter to Title 43 RCW; and providing effective dates."

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