

# HOUSE BILL REPORT

## E2SHB 2322

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**As Passed House:**

February 14, 2004

**Title:** An act relating to requiring prehire screening for law enforcement applicants.

**Brief Description:** Requiring prehire screening for law enforcement applicants.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives McDonald, Delvin, Kristiansen, Pearson, Lovick and Shabro).

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 1/21/04, 2/3/04 [DPS];

Appropriations: 2/6/04, 2/10/04 [DP2S(w/o sub CJC)].

**Floor Activity:**

Passed House: 2/14/04, 95-0.

**Brief Summary of Engrossed Second Substitute Bill**

- Makes it mandatory for all new applicants that have been offered a conditional offer of employment as a full-time or part-time officer or a reserve officer that has been out of work for more than two years to take and successfully pass a psychological and polygraph or similar test.
- Requires that the psychological and polygraph tests be administered by the county, city, and state law enforcement agencies.
- Authorizes hiring entities to charge each new recruit and returning reserve officer to pay a portion of the testing fee based on the actual cost of the test or \$400, whichever is less and authorizes counties, cities, and state law enforcement agencies to establish a payment plan for those officers that do not readily have the means to pay for the testing fee.
- Requires new recruits and reserve officers to pass the psychological and polygraph or similar tests as a condition of continued employment as a peace officer and requires the CJTC to deny peace officer certification to any officer that has failed the psychological and polygraph tests.

- Prohibits local law enforcement agencies and the Washington State Patrol (WSP) from hiring officers who have not successfully completed the psychological and polygraph or similar tests and obtained a certificate of basic law enforcement.

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## HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Pearson and Veloria.

**Staff:** Yvonne Walker (786-7841).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Criminal Justice and Corrections. Signed by 27 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Ruderman, Schual-Berke, Sump and Talcott.

**Staff:** Bernard Dean (786-7130).

### **Background:**

The CJTC provides basic law enforcement training, corrections training, and educational programs for criminal justice personnel, including commissioned officers, corrections officers, fire marshals, and prosecuting attorneys.

CJTC Boards. The CJTC consists of two training standards and education boards: 1) the Board on Law Enforcement Training Standards and Education, and 2) the Board on Correctional Training Standards and Education. The Board on Law Enforcement Training Standards and Education (Board) is a 13 member board charged with advising and recommending minimum curriculum standards to the CJTC for all training and education programs conducted for criminal justice personnel within their specific purview. The CJTC may adopt any curriculum standards as recommended by the Board and may also establish any rules and regulations recommended by the Board relating to the physical, mental, and moral fitness which governs the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provisions.

Training. Basic law enforcement officer training is generally required of all law enforcement officers, with the exception of volunteers, and reserve officers employed in Washington. The training consists of a 720-hour program covering a wide variety of subjects, including constitutional and criminal law and procedures, criminal investigation, firearms training, and communication and writing skills. All law enforcement personnel hired, transferred, or promoted, are required to complete the core training requirements within six months unless the employee receives a waiver from the CJTC.

Law Enforcement Certification. In addition to the basic training requirement, all Washington law enforcement officers must obtain and retain certification as a peace officer. As a prerequisite to certification, a peace officer must release to the CJTC all personnel files, termination papers, criminal investigation files, or any other files, papers, or information that are directly related to the certification or decertification of the officer. The CJTC has the authority to grant, deny, or revoke the certification of peace officers.

Furthermore, although not statutorily required, the Washington State Patrol (WSP) and several local law enforcement agencies around the state also require peace officers that they hire to take and successfully pass a psychological examination and polygraph test as a part of their hiring process for law enforcement officers.

### **Summary of Engrossed Second Substitute Bill:**

All new full-time, part-time, and returning reserve officers must pass a psychological and polygraph test (or any similar procedure) as a condition of continued employment as a peace officer.

Each hiring agency must require and administer a psychological and polygraph examination to each law enforcement officer applicant that has been offered a conditional offer of employment and each returning reserve officer that has been out of work for more than two years. The hiring county, city, or state law enforcement agency is authorized to require those applicants taking the psychological and polygraph tests to pay a portion of the testing fee based on the actual cost of the test or \$400, whichever is less. In addition, the hiring entity may establish a payment plan for those instances where a peace officer may not readily have the means to pay for his or her portion of the testing fee.

The CJTC must deny peace officer certification to any officer that has lost his or her certification as a result of a break in law enforcement work of more than two years and has failed to pass the psychological and polygraph tests. Local law enforcement agencies and the WSP are prohibited from hiring officers that have: 1.) not meet its minimum standards for employment with the agency; 2.) have not successfully completed the basic law enforcement training; and 3.) have failed to successfully pass the psychological and polygraph tests.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (Criminal Justice & Corrections) This bill is not intended to relate to every applicant throughout the state who applies for a law enforcement position. It is only intended for commissioned law enforcement officers.

Citizens have the right to expect that persons in uniform, more specifically law enforcement officers, are worthy of trust. There is a problem when law enforcement officers are commissioned without being tested to see if they are actually psychologically fit for the position.

This bill should be put into place for the safety of the public regardless the cost of the bill. The Department of Fish and Wildlife has administered psychological exams since 1985 and it is an extremely important piece of their hiring process. The department requires their applicants to pay a portion of the testing fee.

(Concerns) The original bill as drafted does not state whether a person would have to pass the psychological or polygraph exam. In addition, under federal law a polygraph test cannot be given until an offer of employment has been given. The bill can also be a quite substantial cost for smaller law enforcement agencies. (The substitute bill addresses these concerns).

**Testimony For:** (Appropriations) The Washington Association of Sheriffs and Police Chiefs would like to ask for one more amendment that would not require the Criminal Justice Training Commission to conduct the tests. Each independent agency will accept responsibility for administering the psychological and polygraph tests. Additionally, we would ask that agencies be authorized to provide a polygraph or equal test. Many agencies are making use of new technology such as voice stress analyzers. With these changes, there would not be a need for a fiscal note or any money from the state.

**Testimony Against:** (Criminal Justice & Corrections) None.

**Testimony Against:** (Appropriations) None.

**Persons Testifying:** (Criminal Justice & Corrections) (In support) Representative McDonald, prime sponsor; Michael Parsons, Criminal Justice Training Commission; and Bruce Bjork, Washington Department of Fish and Wildlife.

(Concerns) Larry Erickson, Washington Association of Sheriffs and Police Chiefs; Sophia

Byrd, Association of Counties; and Jim Justin, Association of Washington Cities.

**Persons Testifying:** (Appropriations) Michael Parsons, Gambling Commission; and Larry Erickson, Washington Association of Sheriff and Police Chiefs.

**Persons Signed In To Testify But Not Testifying:** (Criminal Justice & Corrections) None.

**Persons Signed In To Testify But Not Testifying:** (Appropriations) None.