

HOUSE BILL REPORT

HB 2367

As Passed Legislature

Title: An act relating to the certification of tribal police officers.

Brief Description: Regarding the certification of tribal police officers.

Sponsors: By Representatives O'Brien, Kirby, Strow, McCoy and B. Sullivan; by request of Criminal Justice Training Commission.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/10/06, 1/20/06 [DP].

Floor Activity:

Passed House: 1/27/06, 78-20.

Passed Senate: 2/28/06, 44-4.

Passed Legislature.

Brief Summary of Bill

- Authorizes the Criminal Justice Training Commission to grant, deny, or revoke the certification of tribal police officers employed by a tribal government that has voluntarily requested certification for their police officers.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 5 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kirby, Strow and Williams.

Minority Report: Without recommendation. Signed by 2 members: Representatives Pearson, Ranking Minority Member and Ahern, Assistant Ranking Minority Member.

Staff: Yvonne Walker (786-7841).

Background:

The Criminal Justice Training Commission (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. Basic law enforcement officer training is generally required of all law enforcement officers, with the exception of volunteers, and reserve officers employed in Washington.

Certification. In addition to the basic training requirement all Washington law enforcement officers are required to obtain and retain certification as peace officers as a condition of continuing employment as a peace officer. The CJTC is authorized to issue or revoke all peace officer certifications. 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.

A peace officer's certification may be denied or revoked if the officer has done one of the following actions:

- failed to timely meet all requirements for obtaining a certificate of basic law enforcement training or an authorized exemption from the training (certification lapses when there is a break of more than 24 consecutive months in the officer's service as a full-time law enforcement officer);
- knowingly falsified or omitted information on a training application or certification to the CJTC;
- been convicted of a felony unless the felony conviction was fully disclosed to the employing agency before being hired;
- been discharged for misconduct and the discharge was final;
- obtained a certificate that was previously issued by administrative error on the part of the CJTC; or
- interfered with an investigation or action for denial or revocation of a certificate by knowingly making a false statement to the CJTC or tampering with evidence or intimidating any witness.

Washington does not have a statewide certification or re-certification process for tribal law enforcement officers. As a result, tribal police officer certification is not required of new police officers joining a tribal police agency or even returning tribal police officers who may have left full-time service and have later chosen to return to their careers with a tribal police department.

Hearings Panel. When an appeal is filed in relation to decertification of a peace officer who is not a peace officer of the Washington State Patrol (WSP), the hearings board must consist of the following persons: (1) a police chief; (2) a sheriff; (3) two police officers who are at or below the level of first-line supervisor, who are from city or county law enforcement agencies, and who have at least 10 years of experience; and (4) one person who is not currently a peace officer and who represents a community college or a four-year college or university.

When an appeal is filed in relation to decertification of a peace officer of the WSP, the CJTC must appoint to the hearings panel: (1) either one police chief or one sheriff; (2) one administrator of the WSP; (3) one peace officer who is at or below the level of first-line supervisor, who is from a city or county law enforcement agency, and who has at least 10 years of experience as a peace officer; (4) one state patrol officer who is at or below the level of a first-line supervisor and who has at least 10 years of experience as a peace officer; and (5)

one person who is not currently a peace officer and who represents a community college or four-year college or university.

In cases where there is a charge: (1) upon which revocation or denial of certification is based on a peace officer being discharged for disqualifying misconduct; (2) where the discharge is "final;" and (3) where the officer received a hearing culminating in an affirming decision following separation from service by the employer, the hearings panel may revoke or deny certification if it determines that the discharge occurred and was based on disqualifying misconduct. The hearings panel does not need to redetermine the underlying facts, but may make a determination based solely on review of the records and the employment separation proceeding. However, the hearings panel may, in its discretion, consider additional evidence to determine whether a discharge actually occurred and whether it was based on disqualifying misconduct. The hearings panel must, upon written request by the subject peace officer, allow the peace officer to present additional evidence of extenuating circumstances.

Where there is a charge where revocation or denial of certification is based upon a peace officer being convicted at any time of a felony offense, the hearings panel must revoke or deny certification, if it determines that the peace officer was convicted of a felony. The hearings panel need not redetermine the underlying facts, but may make this determination based solely on review of the records and the decision relating to the criminal proceeding. However, the hearings panel must, upon the panel's determination of relevancy, consider additional evidence to determine whether the peace officer was convicted of a felony.

Summary of Bill:

The CJTC has the authority to grant, deny, or revoke the certification of tribal police officers employed by any tribal government that has voluntarily requested certification for their police officers.

Certification. A tribal government voluntarily requesting certification for their police officers must enter into a written agreement with the CJTC. The agreement must require the tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as those requirements are applied to other peace officers certified in the state.

In addition, all officers applying for certification as tribal police officers must meet the same CJTC requirements required for the certification of other peace officers employed in Washington. An application for certification as a tribal police officer must be accepted and processed in the same manner as those for certification of peace officers.

Hearings Panel. A five-member hearings panel must both hear the case and make the CJTC's final administrative decision. When a hearing is requested in relation to the decertification of a tribal police officer, the hearings board must consist of the following persons: (1) one police chief or one sheriff; (2) one tribal police chief; (3) one peace officer who is at or below the level of a first-line supervisor, who is from a city or county law enforcement agency, and who

has at least 10 years of experience as a peace officer; (4) one tribal police officer who is at or below the level of first-line supervisor, and who has at least 10 years of experience as a peace officer; and (5) one person who is not currently a peace officer and who represents a community college or a four-year college or university.

A "tribal police officer" is defined as any person employed and commissioned by a tribal government to enforce the criminal laws of that government.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect January 1, 2007.

Testimony For: This bill is a way to recognize the professionalism, training accomplishments, and accountability of tribal law enforcement officers. This bill does not certify tribal officers as peace officers. It only certifies them as tribal officers. It also provides an opportunity for tribal officers to provide standardized training which is the same that is realized by state, county, and local officers. It holds tribal officers to a standard of accountability in regards to certification and decertification. Many sheriff offices currently use tribal officers. The passage of this bill would provide them with a comfort level of knowing that these officers are certified by the state and have the same level of training as other officers within the state.

This bill can be absorbed within the current budget of the CJTC.

Testimony Against: None.

Persons Testifying: Michael Parson, Criminal Justice Training Center; Chief Scott Smith, Mount Lake Terrace Police Department; and J. A. Goss, Tulalip Tribal Police.

Persons Signed In To Testify But Not Testifying: None.