
SENATE BILL 5156

State of Washington

61st Legislature

2009 Regular Session

By Senators Brandland, McCaslin, and Keiser; by request of Criminal Justice Training Commission

Read first time 01/15/09. Referred to Committee on Judiciary.

1 AN ACT Relating to certification actions of Washington peace
2 officers; and amending RCW 43.101.380.

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

4 **Sec. 1.** RCW 43.101.380 and 2006 c 22 s 3 are each amended to read
5 as follows:

6 (1) The procedures governing adjudicative proceedings before
7 agencies under chapter 34.05 RCW, the administrative procedure act,
8 govern hearings before the commission and govern all other actions
9 before the commission unless otherwise provided in this chapter. The
10 standard of proof in actions before the commission is clear, cogent,
11 and convincing evidence.

12 (2) In all hearings requested under RCW 43.101.155, a five-member
13 hearings panel shall both hear the case and make the commission's final
14 administrative decision. Members of the commission or the board on law
15 enforcement training standards and education may, but need not be,
16 appointed to the hearings panels. The commission shall appoint as
17 follows two or more panels to hear appeals from (~~decertification~~)
18 certification actions:

1 (a) When a hearing is requested in relation to (~~decertification~~)
2 a certification action of a Washington peace officer who is not a peace
3 officer of the Washington state patrol, the commission shall appoint to
4 the panel: (i) One police chief; (ii) one sheriff; (iii) two certified
5 Washington peace officers who are at or below the level of first line
6 supervisor, (~~who are~~) one of whom is from a city or county law
7 enforcement (~~agencies~~) agency, and who have at least ten years'
8 experience as peace officers; and (iv) one person who is not currently
9 a peace officer and who represents a community college or four-year
10 college or university.

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

23 (c) When a hearing is requested in relation to (~~decertification~~)
24 a certification action of a tribal police officer, the commission shall
25 appoint to the panel (i) either one police chief or one sheriff; (ii)
26 one tribal police chief; (iii) one certified Washington peace officer
27 who is at or below the level of first line supervisor, (~~who is from a~~
28 ~~city or county law enforcement agency,~~) and who has at least ten
29 years' experience as a peace officer; (iv) one tribal police officer
30 who is at or below the level of first line supervisor, and who has at
31 least ten years' experience as a peace officer; and (v) one person who
32 is not currently a peace officer and who represents a community college
33 or four-year college or university.

34 (d) Persons appointed to hearings panels by the commission shall,
35 in relation to any (~~decertification matter~~) certification action on
36 which they sit, have the powers, duties, and immunities, and are
37 entitled to the emoluments, including travel expenses in accordance
38 with RCW 43.03.050 and 43.03.060, of regular commission members.

1 (3) Where the charge upon which revocation or denial is based is
2 that a peace officer was "discharged for disqualifying misconduct," and
3 the discharge is "final," within the meaning of RCW 43.101.105(1)(d),
4 and the officer received a civil service hearing or arbitration hearing
5 culminating in an affirming decision following separation from service
6 by the employer, the hearings panel may revoke or deny certification if
7 the hearings panel determines that the discharge occurred and was based
8 on disqualifying misconduct; the hearings panel need not redetermine
9 the underlying facts but may make this determination based solely on
10 review of the records and decision relating to the employment
11 separation proceeding. However, the hearings panel may, in its
12 discretion, consider additional evidence to determine whether such a
13 discharge occurred and was based on such disqualifying misconduct. The
14 hearings panel shall, upon written request by the subject peace
15 officer, allow the peace officer to present additional evidence of
16 extenuating circumstances.

17 Where the charge upon which revocation or denial of certification
18 is based is that a peace officer "has been convicted at any time of a
19 felony offense" within the meaning of RCW 43.101.105(1)(c), the
20 hearings panel shall revoke or deny certification if it determines that
21 the peace officer was convicted of a felony. The hearings panel need
22 not redetermine the underlying facts but may make this determination
23 based solely on review of the records and decision relating to the
24 criminal proceeding. However, the hearings panel shall, upon the
25 panel's determination of relevancy, consider additional evidence to
26 determine whether the peace officer was convicted of a felony.

27 Where the charge upon which revocation or denial is based is under
28 RCW 43.101.105(1) (a), (b), (e), or (f), the hearings panel shall
29 determine the underlying facts relating to the charge upon which
30 revocation or denial of certification is based.

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

--- END ---