

SENATE BILL REPORT

SB 5320

As Reported By Senate Committee On:
Human Services & Corrections, February 14, 2005

Title: An act relating to the certification of corrections officers.

Brief Description: Authorizing the certification of corrections officers.

Sponsors: Senators Hargrove and Brandland; by request of Criminal Justice Training Commission.

Brief History:

Committee Activity: Human Services & Corrections: 1/27/05, 2/14/05 [DPS].
Ways & Means: 2/28/05.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5320 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, McAuliffe and Thibaudeau.

Staff: Kiki Keizer (786-7430)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Chelsea Buchanan (786-7446)

Background: All corrections personnel of the state, counties, or municipalities must complete basic corrections training provided or approved by the Criminal Justice Training Commission within the first six months of their employment. Successful completion of training is a condition of continued employment. There is no requirement that corrections personnel maintain their certification, nor is any agency given the authority to revoke a corrections officer's certification if the officer has committed misconduct.

Summary of Substitute Bill: A corrections officer is terminated from employment for conviction for any crime: (1) committed on the job; (2) involving dishonesty or false statement; or (3) involving possession of a controlled substance. Conduct that would constitute any of these crimes or knowingly making material false statements during disciplinary proceedings when the false statements are the sole basis for termination also results in termination from employment. Upon termination or resignation, the applicable agency notifies the commission and provides details to aid in determining whether grounds for revocation of certification exist.

All corrections personnel must obtain and maintain certification as a condition of continuing employment. The commission allows the corrections officer to retain certification as long as

the officer meets training requirements, meets all other requirements, is not denied certification, or has not had certification revoked. The commission may deny or revoke certification, subject to notice and hearing requirements, if the officer: (1) has failed to meet certification requirements; (2) knowingly falsified or omitted material information on an application for certification; (3) has been convicted of a felony offense at any time unless disclosed at the time of employment; (4) has been discharged for disqualifying misconduct; (5) received certification because of administrative error; or (6) interfered with an action or investigation for denial or revocation of the certification by making false statements, tampering with evidence, or intimidating a witness.

A person whose certification is denied or revoked based on a felony conviction is not eligible for certification at any time unless the conviction is reversed. The commission establishes rules regarding the return of eligibility for certification in other cases.

Upon receiving a complaint that a corrections officer's certification should be revoked, the commission has the discretion to further investigate the matter. If the commission determines that there is probable cause to believe that certification should be revoked or denied, the officer is served with a statement of the charges and notice that the officer has 60 days within which to request a hearing. The hearing, if requested, occurs between 90 and 120 days after notice by the commission. The standard of proof at commission hearings is clear, cogent, and convincing evidence. The hearing is conducted by a panel consisting of two heads of corrections agencies, two corrections officers at or below the level of first line supervisor and who have at least ten years experience, and a person who is not a current corrections officer who represents a community college or four-year college or university. Commission certification hearings are open to the public, but deliberations are not. Investigative records and all files or papers obtained by the commission during the investigation are exempt from public disclosure. The panel's decision is subject to judicial review under the Administrative Procedure Act.

A person whose peace officer certification is denied or revoked may not be certified as a corrections officer without first satisfying the eligibility requirements for certification or reinstatement of certification. Similarly, a person whose corrections officer certification is denied or revoked may not be certified as a peace officer without first satisfying the eligibility requirements for certification or reinstatement of certification.

Certification lapses automatically when there is a break in service as a corrections officer for longer than 24 consecutive months. The commission is authorized to adopt recertification requirements based on breaks in service. Juvenile Rehabilitation officers are not subject to the continuing certification and revocation provisions of the bill upon request of the employing agency.

A corrections officer at or below the level of first line supervisor is added to the Criminal Justice Training Commission.

Substitute Bill Compared to Original Bill: A corrections officer at or below the level of first line supervisor is added to the membership of the Criminal Justice Training Commission.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For The Original Bill: Working in corrections is a difficult job. Establishing a system for certifying corrections officers, and for denying or revoking certification when important professional standards are not met, gives persons working in this difficult field assurance that they can rely on their colleagues. It reduces the likelihood that a corrections officer who is fired for violating the law in one part of the state will be hired as a corrections officer in another part of the state. It promotes better risk management by reducing the likelihood of misconduct that could translate into institutional liability. The certification system created by the bill is modeled after the certification system for peace officers in the state.

Other: The bill should be amended to give corrections officers a seat on the Criminal Justice Training Commission because peace officers, who are subject to a similar certification system, are given such a seat.

Testimony Against The Original Bill: None.

Who Testified: PRO: Michael Parsons, Criminal Justice Training Commission; James McMahan, Washington Association of Sheriffs and Police Chiefs; Eldon Vail, Department of Corrections. OTHER: Dennis Eagle, Washington Federation of State Employees.