

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1081

59th Legislature
2005 Regular Session

Passed by the House April 18, 2005
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 14, 2005
Yeas 38 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1081** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1081

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By Representatives McDonald, O'Brien, Morrell and Pearson

Read first time 01/13/2005. Referred to Committee on Criminal
Justice & Corrections.

1 AN ACT Relating to requiring prehire screening for law enforcement
2 applicants; and amending RCW 43.101.080, 43.101.095, 43.101.105, and
3 43.43.020.

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

5 **Sec. 1.** RCW 43.101.080 and 2001 c 166 s 1 are each amended to read
6 as follows:

7 The commission shall have all of the following powers:

8 (1) To meet at such times and places as it may deem proper;

9 (2) To adopt any rules and regulations as it may deem necessary;

10 (3) To contract for services as it deems necessary in order to
11 carry out its duties and responsibilities;

12 (4) To cooperate with and secure the cooperation of any department,
13 agency, or instrumentality in state, county, and city government, and
14 other commissions affected by or concerned with the business of the
15 commission;

16 (5) To do any and all things necessary or convenient to enable it
17 fully and adequately to perform its duties and to exercise the power
18 granted to it;

- 1 (6) To select and employ an executive director, and to empower him
2 to perform such duties and responsibilities as it may deem necessary;
- 3 (7) To assume legal, fiscal, and program responsibility for all
4 training conducted by the commission;
- 5 (8) To establish, by rule and regulation, standards for the
6 training of criminal justice personnel where such standards are not
7 prescribed by statute;
- 8 (9) To own, establish, and operate, or to contract with other
9 qualified institutions or organizations for the operation of, training
10 and education programs for criminal justice personnel and to purchase,
11 lease, or otherwise acquire, subject to the approval of the department
12 of general administration, a training facility or facilities necessary
13 to the conducting of such programs;
- 14 (10) To establish, by rule and regulation, minimum curriculum
15 standards for all training programs conducted for employed criminal
16 justice personnel;
- 17 (11) To review and approve or reject standards for instructors of
18 training programs for criminal justice personnel, and to employ
19 personnel on a temporary basis as instructors without any loss of
20 employee benefits to those instructors;
- 21 (12) To direct the development of alternative, innovate, and
22 interdisciplinary training techniques;
- 23 (13) To review and approve or reject training programs conducted
24 for criminal justice personnel and rules establishing and prescribing
25 minimum training and education standards recommended by the training
26 standards and education boards;
- 27 (14) To allocate financial resources among training and education
28 programs conducted by the commission;
- 29 (15) To allocate training facility space among training and
30 education programs conducted by the commission;
- 31 (16) To issue diplomas certifying satisfactory completion of any
32 training or education program conducted or approved by the commission
33 to any person so completing such a program;
- 34 (17) To provide for the employment of such personnel as may be
35 practical to serve as temporary replacements for any person engaged in
36 a basic training program as defined by the commission;
- 37 (18) To establish rules and regulations recommended by the training
38 standards and education boards prescribing minimum standards relating

1 to physical, mental and moral fitness which shall govern the
2 recruitment of criminal justice personnel where such standards are not
3 prescribed by statute or constitutional provision;

4 (19) To require that each applicant that has been offered a
5 conditional offer of employment as a fully commissioned peace officer
6 or a fully commissioned reserve officer take and successfully pass a
7 psychological examination and a polygraph test or similar assessment
8 procedure as administered by county, city, or state law enforcement
9 agencies as a condition of employment as a peace officer. The
10 psychological examination and the polygraph examination shall be
11 administered in accordance with the requirements of RCW 43.101.095(2).
12 The employing county, city, or state law enforcement agency may require
13 that each peace officer or reserve officer who is required to take a
14 psychological examination and a polygraph or similar test pay a portion
15 of the testing fee based on the actual cost of the test or four hundred
16 dollars, whichever is less. County, city, and state law enforcement
17 agencies may establish a payment plan if they determine that the peace
18 officer or reserve officer does not readily have the means to pay for
19 his or her portion of the testing fee.

20 All rules and regulations adopted by the commission shall be
21 adopted and administered pursuant to the administrative procedure act,
22 chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.

23 **Sec. 2.** RCW 43.101.095 and 2001 c 167 s 2 are each amended to read
24 as follows:

25 (1) As a condition of continuing employment as peace officers, all
26 Washington peace officers: (a) Shall timely obtain certification as
27 peace officers, or timely obtain certification or exemption therefrom,
28 by meeting all requirements of RCW 43.101.200, as that section is
29 administered under the rules of the commission, as well by meeting any
30 additional requirements under this chapter; and (b) shall maintain the
31 basic certification as peace officers under this chapter.

32 (2)(a) As a condition of continuing employment for any applicant
33 that has been offered a conditional offer of employment as a fully
34 commissioned peace officer or a reserve officer after the effective
35 date of this act, including any person whose certification has lapsed
36 as a result of a break of more than twenty-four consecutive months in
37 the officer's service as a fully commissioned peace officer or reserve

1 officer, the applicant shall successfully pass a psychological
2 examination and a polygraph or similar test as administered by the
3 county, city, or state law enforcement agency that complies with the
4 following requirements:

5 (i) The psychological examination shall be administered by a
6 psychiatrist licensed in the state of Washington pursuant to chapter
7 18.71 RCW or a psychologist licensed in the state of Washington
8 pursuant to chapter 18.83 RCW. The examination shall consist of, at a
9 minimum, a standardized clinical test that is widely used as an
10 objective clinical screening tool for personality and psychosocial
11 disorders. The test that is used and the conditions under which the
12 test is administered, scored, and interpreted must comply with accepted
13 psychological standards. Additional tests may be administered at the
14 option of the employing law enforcement agency.

15 (ii) The polygraph examination or similar assessment shall be
16 administered by an experienced polygrapher who is a graduate of a
17 polygraph school accredited by the American polygraph association.

18 (b) The employing county, city, or state law enforcement agency may
19 require that each peace officer or reserve officer who is required to
20 take a psychological examination and a polygraph or similar test pay a
21 portion of the testing fee based on the actual cost of the test or four
22 hundred dollars, whichever is less. County, city, and state law
23 enforcement agencies may establish a payment plan if they determine
24 that the peace officer or reserve officer does not readily have the
25 means to pay for his or her portion of the testing fee.

26 (3) The commission shall certify peace officers who have satisfied,
27 or have been exempted by statute or by rule from, the basic training
28 requirements of RCW 43.101.200 on or before January 1, 2002.
29 Thereafter, the commission may revoke certification pursuant to this
30 chapter.

31 ((+2)) (4) The commission shall allow a peace officer to retain
32 status as a certified peace officer as long as the officer: (a) Timely
33 meets the basic law enforcement training requirements, or is exempted
34 therefrom, in whole or in part, under RCW 43.101.200 or under rule of
35 the commission; (b) meets or is exempted from any other requirements
36 under this chapter as administered under the rules adopted by the
37 commission; (c) is not denied certification by the commission under

1 this chapter; and (d) has not had certification revoked by the
2 commission.

3 ~~((+3))~~ (5) As a prerequisite to certification, as well as a
4 prerequisite to pursuit of a hearing under RCW 43.101.155, a peace
5 officer must, on a form devised or adopted by the commission, authorize
6 the release to the commission of his or her personnel files,
7 termination papers, criminal investigation files, or other files,
8 papers, or information that are directly related to a certification
9 matter or decertification matter before the commission.

10 **Sec. 3.** RCW 43.101.105 and 2001 c 167 s 3 are each amended to read
11 as follows:

12 (1) Upon request by a peace officer's employer or on its own
13 initiative, the commission may deny or revoke certification of any
14 peace officer, after written notice and hearing, if a hearing is timely
15 requested by the peace officer under RCW 43.101.155, based upon a
16 finding of one or more of the following conditions:

17 ~~((+1))~~ (a) The peace officer has failed to timely meet all
18 requirements for obtaining a certificate of basic law enforcement
19 training, a certificate of basic law enforcement training equivalency,
20 or a certificate of exemption from the training;

21 ~~((+2))~~ (b) The peace officer has knowingly falsified or omitted
22 material information on an application for training or certification to
23 the commission;

24 ~~((+3))~~ (c) The peace officer has been convicted at any time of a
25 felony offense under the laws of this state or has been convicted of a
26 federal or out-of-state offense comparable to a felony under the laws
27 of this state; except that if a certified peace officer was convicted
28 of a felony before being employed as a peace officer, and the
29 circumstances of the prior felony conviction were fully disclosed to
30 his or her employer before being hired, the commission may revoke
31 certification only with the agreement of the employing law enforcement
32 agency;

33 ~~((+4))~~ (d) The peace officer has been discharged for disqualifying
34 misconduct, the discharge is final, and some or all of the acts or
35 omissions forming the basis for the discharge proceedings occurred on
36 or after January 1, 2002;

1 ~~((+5))~~ (e) The peace officer's certificate was previously issued
2 by administrative error on the part of the commission; or

3 ~~((+6))~~ (f) The peace officer has interfered with an investigation
4 or action for denial or revocation of certificate by: ~~((+a))~~ (i)
5 Knowingly making a materially false statement to the commission; or
6 ~~((+b))~~ (ii) in any matter under investigation by or otherwise before
7 the commission, tampering with evidence or tampering with or
8 intimidating any witness.

9 (2) After the effective date of this act, the commission shall deny
10 certification to any applicant that has lost his or her certification
11 as a result of a break in service of more than twenty-four consecutive
12 months if that applicant failed to successfully pass the psychological
13 examination and the polygraph test or similar assessment procedure
14 required in RCW 43.101.095(2), as administered by county, city, or
15 state law enforcement agencies.

16 **Sec. 4.** RCW 43.43.020 and 1983 c 144 s 1 are each amended to read
17 as follows:

18 The governor, with the advice and consent of the senate, shall
19 appoint the chief of the Washington state patrol, determine his
20 compensation, and may remove him at will.

21 The chief shall appoint a sufficient number of competent persons to
22 act as Washington state patrol officers, may remove them for cause, as
23 provided in this chapter, and shall make promotional appointments,
24 determine their compensation, and define their rank and duties, as
25 hereinafter provided. Before a person may be appointed to act as a
26 Washington state patrol officer, the person shall meet the minimum
27 standards for employment with the Washington state patrol, including
28 successful completion of a psychological examination and polygraph
29 examination or similar assessment procedure administered by the chief
30 or his or her designee in accordance with the requirements of RCW
31 43.101.095(2).

32 The chief may appoint employees of the Washington state patrol to
33 serve as special deputies, with such restricted police authority as the
34 chief shall designate as being necessary and consistent with their
35 assignment to duty. Such appointment and conferral of authority shall
36 not qualify said employees for membership in the Washington state

1 patrol retirement system, nor shall it grant tenure of office as a
2 regular officer of the Washington state patrol.

3 The chief may personally appoint, with the consent of the state
4 treasurer, employees of the office of the state treasurer who are
5 qualified under the standards of the criminal justice training
6 commission, or who have comparable training and experience, to serve as
7 special deputies. The law enforcement powers of any special deputies
8 appointed in the office of the state treasurer shall be designated by
9 the chief and shall be restricted to those powers necessary to provide
10 for statewide security of the holdings or property of or under the
11 custody of the office of the state treasurer. These appointments may
12 be revoked by the chief at any time and shall be revoked upon the
13 written request of the state treasurer or by operation of law upon
14 termination of the special deputy's employment with the office of the
15 state treasurer or thirty days after the chief who made the appointment
16 leaves office. The chief shall be civilly immune for the acts of such
17 special deputies. Such appointment and conferral of authority shall
18 not qualify such employees for membership in the Washington state
19 patrol retirement system, nor shall it grant tenure of office as a
20 regular officer of the Washington state patrol.

--- END ---