

**E2SSB 5051** - H COMM AMD  
By Committee on Appropriations

**ADOPTED AS AMENDED 04/07/2021**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 43.101.010 and 2020 c 119 s 2 are each amended to  
4 read as follows:

5 When used in this chapter:

6 (1) (~~The term "commission"~~) "Applicant" means an individual who  
7 has received a conditional offer of employment with a law enforcement  
8 or corrections agency.

9 (2) "Commission" means the Washington state criminal justice  
10 training commission.

11 (~~((2) The term "boards" means the education and training~~  
12 ~~standards boards, the establishment of which are authorized by this~~  
13 ~~chapter.))~~)

14 (3) (~~The term "criminal"~~) "Criminal justice personnel" means any  
15 person who serves ((in a county, city, state, or port commission  
16 agency engaged in crime prevention, crime reduction, or enforcement  
17 of the criminal law)) as a peace officer, reserve officer, or  
18 corrections officer.

19 (4) (~~The term "law"~~) "Law enforcement personnel" means any  
20 ((public employee or volunteer having as a primary function the  
21 enforcement of criminal laws in general or any employee or volunteer  
22 of, or any individual commissioned by, any municipal, county, state,  
23 or combination thereof, agency having as its primary function the  
24 enforcement of criminal laws in general as distinguished from an  
25 agency possessing peace officer powers, the primary function of which  
26 is the implementation of specialized subject matter areas. For the  
27 purposes of this subsection "primary function" means that function to  
28 which the greater allocation of resources is made)) person elected,  
29 appointed, or employed as a general authority Washington peace  
30 officer as defined in RCW 10.93.020.

1           (5) (~~The term "correctional~~) "Correctional personnel" means any  
2 employee or volunteer who by state, county, municipal, or combination  
3 thereof, statute has the responsibility for the confinement, care,  
4 management, training, treatment, education, supervision, or  
5 counseling of those individuals whose civil rights have been limited  
6 in some way by legal sanction.

7           (6) "Chief for a day program" means a program in which  
8 commissioners and staff partner with local, state, and federal law  
9 enforcement agencies, hospitals, and the community to provide a day  
10 of special attention to chronically ill children. Each child is  
11 selected and sponsored by a law enforcement agency. The event, "chief  
12 for a day," occurs on one day, annually or every other year and may  
13 occur on the grounds and in the facilities of the commission. The  
14 program may include any appropriate honoring of the child as a  
15 "chief," such as a certificate swearing them in as a chief, a badge,  
16 a uniform, and donated gifts such as games, puzzles, and art  
17 supplies.

18           (7) (~~A peace officer or corrections officer is "convicted"~~)  
19 "Convicted" means at the time a plea of guilty, nolo contendere, or  
20 deferred sentence has been accepted, or a verdict of guilty or  
21 finding of guilt has been filed, notwithstanding the pendency of any  
22 future proceedings, including but not limited to sentencing,  
23 posttrial or postfact-finding motions and appeals. "Conviction"  
24 includes (~~a deferral of sentence~~) all instances in which a plea of  
25 guilty or nolo contendere is the basis for conviction, all  
26 proceedings in which there is a case disposition agreement, and  
27 (~~also includes the~~) any equivalent disposition by a court in a  
28 jurisdiction other than the state of Washington.

29           (8) (~~(a) "Discharged for disqualifying misconduct" has the~~  
30 ~~following meanings:~~

31           ~~(i) A peace officer terminated from employment for: (A)~~  
32 ~~Conviction of (I) any crime committed under color of authority as a~~  
33 ~~peace officer, (II) any crime involving dishonesty or false statement~~  
34 ~~within the meaning of Evidence Rule 609(a), (III) the unlawful use or~~  
35 ~~possession of a controlled substance, or (IV) any other crime the~~  
36 ~~conviction of which disqualifies a Washington citizen from the legal~~  
37 ~~right to possess a firearm under state or federal law; (B) conduct~~  
38 ~~that would constitute any of the crimes addressed in (a)(i)(A) of~~  
39 ~~this subsection; or (C) knowingly making materially false statements~~

1 during disciplinary investigations, where the false statements are  
2 the sole basis for the termination; or

3 (ii) A corrections officer terminated from employment for: (A)  
4 Conviction of (I) any crime committed under color of authority as a  
5 corrections officer, (II) any crime involving dishonesty or false  
6 statement within the meaning of Evidence Rule 609(a), or (III) the  
7 unlawful use or possession of a controlled substance; (B) conduct  
8 that would constitute any of the crimes addressed in (a)(ii)(A) of  
9 this subsection; or (C) knowingly making materially false statements  
10 during disciplinary investigations, where the false statements are  
11 the sole basis for the termination.

12 (b) A peace officer or corrections officer is "discharged for  
13 disqualifying misconduct" within the meaning of this subsection (8)  
14 under the ordinary meaning of the term and when the totality of the  
15 circumstances support a finding that the officer resigned in  
16 anticipation of discipline, whether or not the misconduct was  
17 discovered at the time of resignation, and when such discipline, if  
18 carried forward, would more likely than not have led to discharge for  
19 disqualifying misconduct within the meaning of this subsection (8).

20 (9) When used in context of proceedings referred to in this  
21 chapter, "final" means that the peace officer or corrections officer  
22 has exhausted all available civil service appeals, collective  
23 bargaining remedies, and all other such direct administrative  
24 appeals, and the officer has not been reinstated as the result of the  
25 action. Finality is not affected by the pendency or availability of  
26 state or federal administrative or court actions for discrimination,  
27 or by the pendency or availability of any remedies other than direct  
28 civil service and collective bargaining remedies.

29 (10)) "Peace officer" ((means any law enforcement personnel  
30 subject to the basic law enforcement training requirement of RCW  
31 43.101.200 and any other requirements of that section,  
32 notwithstanding any waiver or exemption granted by the commission,  
33 and notwithstanding the statutory exemption based on date of initial  
34 hire under RCW 43.101.200)) has the same meaning as a general  
35 authority Washington peace officer as defined in RCW 10.93.020.  
36 Commissioned officers of the Washington state patrol, whether they  
37 have been or may be exempted by rule of the commission from the basic  
38 training requirement of RCW 43.101.200, are included as peace  
39 officers for purposes of this chapter. Fish and wildlife officers

1 with enforcement powers for all criminal laws under RCW 77.15.075 are  
2 peace officers for purposes of this chapter.

3 ~~((11))~~ (9) "Corrections officer" means any corrections agency  
4 employee whose primary job function is to provide for the custody,  
5 safety, and security of adult ((prisoners)) persons in jails and  
6 detention facilities ((and who is subject to the basic corrections  
7 training requirement of RCW 43.101.220 and any other requirements of  
8 that section, notwithstanding any waiver or exemption granted by the  
9 commission, and notwithstanding the statutory exemption based on date  
10 of initial hire under RCW 43.101.220. For the purpose of RCW  
11 43.101.080, 43.101.096, 43.101.106, 43.101.116, 43.101.121,  
12 43.101.126, 43.101.136, 43.101.146, 43.101.156, 43.101.380, and  
13 43.101.400, "corrections)) in the state. "Corrections officer" does  
14 not include individuals employed by state agencies.

15 (10) "Finding" means a determination based on a preponderance of  
16 the evidence whether alleged misconduct occurred; did not occur;  
17 occurred, but was consistent with law and policy; or could neither be  
18 proven or disproven.

19 (11) "Reserve officer" means any person who does not serve as a  
20 peace officer of this state on a full-time basis, but who, when  
21 called by an agency into active service, is fully commissioned on the  
22 same basis as full-time officers to enforce the criminal laws of this  
23 state and includes:

24 (a) Specially commissioned Washington peace officers as defined  
25 in RCW 10.93.020;

26 (b) Limited authority Washington peace officers as defined in RCW  
27 10.93.020;

28 (c) Persons employed as security by public institutions of higher  
29 education as defined in RCW 28B.10.016; and

30 (d) Persons employed for the purpose of providing security in the  
31 K-12 Washington state public school system as defined in RCW  
32 28A.150.010 and who are authorized to use force in fulfilling their  
33 responsibilities.

34 (12) "Tribal police officer" means any person employed and  
35 commissioned by a tribal government to enforce the criminal laws of  
36 that government.

37 **Sec. 2.** RCW 43.101.020 and 1974 ex.s. c 94 s 2 are each amended  
38 to read as follows:

1       (1) There is hereby created and established a state commission to  
2 be known and designated as the Washington state criminal justice  
3 training commission.

4       (2) The purpose of ~~((such))~~ the commission shall be to ~~((provide~~  
5 ~~programs and standards for the training of criminal justice~~  
6 ~~personnel))~~ establish and administer standards and processes for  
7 certification, suspension, and decertification of peace officers and  
8 corrections officers. The commission shall provide programs and  
9 training that enhance the integrity, effectiveness, and  
10 professionalism of peace officers and corrections officers while  
11 helping to ensure that law enforcement and correctional services are  
12 delivered to the people of Washington in a manner that fully complies  
13 with the Constitutions and laws of this state and United States. In  
14 carrying out its duties, the commission shall strive to promote  
15 public trust and confidence in every aspect of the criminal justice  
16 system.

17       **Sec. 3.** RCW 43.101.030 and 2020 c 44 s 1 are each amended to  
18 read as follows:

19       The commission shall consist of ~~((sixteen))~~ 21 members ~~((, who~~  
20 ~~shall be selected))~~ as follows:

21       (1) The governor shall appoint ~~((two))~~ :

22       (a) One incumbent sheriff((s)) and ((two)) one incumbent  
23 chief((s)) of police.

24       ~~((2) The governor shall appoint one officer))~~ The governor shall  
25 additionally appoint an alternate incumbent chief of police who may  
26 perform commission duties in place of the appointed incumbent chief  
27 if that person is unavailable;

28       (b) Two officers at or below the level of first line supervisor  
29 who:

30       (i) Have at least ten years' experience as law enforcement  
31 officers;

32       (ii) Are from ((a county)) two different law enforcement ((agency  
33 and one officer at or below the level of first line supervisor from a  
34 municipal law enforcement agency. Each appointee under this  
35 subsection (2) shall have at least ten years experience as a law  
36 enforcement officer.

37       ~~(3) The governor shall appoint one))~~ agencies that each have at  
38 least 15 officers and are different than the agencies with which the  
39 members in (a) of this subsection are affiliated; and

1 (iii) Are affiliated with different labor organizations;  
2 (c) One tribal police officer at or below the level of first line  
3 supervisor who has at least 10 years' experience as a law enforcement  
4 officer;  
5 (d) One person employed ((in a county correctional system and one  
6 person employed in the state correctional system.  
7 (4) The governor shall appoint one)) in a state or county  
8 corrections agency;  
9 (e) One incumbent county prosecuting attorney or municipal  
10 attorney((-  
11 (5) The governor shall appoint one)) and one public defender;  
12 (f) One licensed attorney with background in investigating,  
13 advocating, teaching, training, or presiding over matters related to  
14 enhancing law enforcement practices and accountability, who has not  
15 been employed in law enforcement;  
16 (g) One elected official of a local government((-  
17 (6) The governor shall appoint two private citizens)) who is not  
18 a sheriff or police chief and has not been employed in the last 10  
19 years as a peace officer or prosecutor in any jurisdiction;  
20 (h) One person with civilian oversight or auditing experience  
21 over law enforcement agencies;  
22 (i) Seven community members who are not employed in law  
23 enforcement, ((one from)) including at least two who reside east of  
24 the crest of the Cascade mountains and ((one from west of the crest  
25 of the Cascade mountains. At)) at least ((one of the private citizens  
26 must be)) three who are from a historically underrepresented  
27 community or communities((-  
28 (7) The governor shall appoint one)); and  
29 (j) One tribal chair, board member, councilmember, or  
30 ((designee)) enrolled member from a federally recognized tribe with  
31 an active certification agreement under RCW 43.101.157((-  
32 (8) The three remaining members shall be:  
33 (a)) who is not a sheriff and has not been employed in the last  
34 10 years as a peace officer or prosecutor in any jurisdiction;  
35 (2) The attorney general or the attorney general's designee;  
36 ((b) The special agent in charge of the Seattle office of the  
37 federal bureau of investigation; and  
38 (e)) (3) The chief of the state patrol or the chief's designee.

1       **Sec. 4.** RCW 43.101.040 and 2009 c 549 s 5167 are each amended to  
2 read as follows:

3       All members appointed to the commission by the governor shall be  
4 appointed for terms of six years, such terms to commence on July  
5 first, and expire on June thirtieth(~~(: PROVIDED, That of the)~~).  
6 However, for members first appointed ((three shall be appointed for  
7 two year terms, three shall be appointed for four year terms, and  
8 three shall be appointed for six year terms: PROVIDED, FURTHER, That  
9 the terms of the two members appointed as incumbent police chiefs  
10 shall not expire in the same year nor shall the terms of the two  
11 members appointed as representing correctional systems expire in the  
12 same year nor shall the terms of the two members appointed as  
13 incumbent sheriffs expire in the same year)) as a result of  
14 chapter . . ., Laws of 2021 (this act), the governor shall appoint  
15 members to terms ranging from two years to six years in order to  
16 stagger future appointments. Any member chosen to fill a vacancy  
17 created otherwise than by expiration of term shall be appointed for  
18 the unexpired term of the member (~~(he or she)~~) the appointee is to  
19 succeed. Any member may be reappointed for additional terms.

20       **Sec. 5.** RCW 43.101.060 and 1999 c 97 s 2 are each amended to  
21 read as follows:

22       The commission shall elect a chair and a vice chair from among  
23 its members. (~~(Seven)~~) Nine members of the commission shall  
24 constitute a quorum. (~~The governor shall summon the commission to~~  
25 ~~its first meeting.~~

26 Meetings)) The commission shall meet at least quarterly.  
27 Additional meetings may be called by the chair and shall be called by  
28 (~~(him or her)~~) the chair upon the written request of six members.

29       **Sec. 6.** RCW 43.101.080 and 2020 c 119 s 13 are each amended to  
30 read as follows:

31       The commission shall have all of the following powers:

- 32       (1) (~~To meet at such times and places as it may deem proper;~~  
33       ~~(2) To adopt any rules and regulations as it may deem necessary;~~  
34       ~~(3) To contract for services as it deems necessary in order to~~  
35 ~~carry out its duties and responsibilities;~~  
36       ~~(4) To cooperate with and secure the cooperation of any~~  
37 ~~department, agency, or instrumentality in state, county, and city~~

1 government, and other commissions affected by or concerned with the  
2 business of the commission;

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

6 ~~(6) To select and employ an executive director, and to empower~~  
7 ~~him or her to perform such duties and responsibilities as it may deem~~  
8 ~~necessary;~~

9 ~~(7) To~~) Conduct training, including the basic law enforcement  
10 academy and in-service training, and assume legal, fiscal, and  
11 program responsibility for all training conducted by the commission;

12 ~~((8) To establish))~~ (2) Grant, deny, suspend, or revoke  
13 certification of, or require remedial training for, peace officers  
14 and corrections officers under the provisions of this chapter;

15 (3) Grant, deny, suspend, or revoke certification of tribal  
16 police officers whose tribal governments have agreed to participate  
17 in the tribal police officer certification process;

18 (4) Related to its duties under subsections (2) and (3) of this  
19 section, provide for the comprehensive and timely investigation of  
20 complaints where necessary to ensure adherence to law and agency  
21 policy, strengthen the integrity and accountability of peace officers  
22 and corrections officers, and maintain public trust and confidence in  
23 the criminal justice system in this state;

24 (5) Establish, by rule and regulation, curricula and standards  
25 for the training of criminal justice personnel where such curricula  
26 and standards are not prescribed by statute;

27 ~~((9) To own))~~ (6) Own, establish, and operate, or ((to))  
28 contract with other qualified institutions or organizations for the  
29 operation of, training and education programs for criminal justice  
30 personnel ((and to purchase, lease, or otherwise acquire, subject to  
31 the approval of the department of enterprise services, a training  
32 facility or facilities necessary to the conducting of such programs;

33 ~~(10) To establish, by rule and regulation, minimum curriculum~~  
34 ~~standards for all training programs conducted for employed criminal~~  
35 ~~justice personnel;~~

36 ~~(11) To review))~~;

37 (7) Review and approve or reject standards for instructors of  
38 training programs for criminal justice personnel, and ((to)) employ  
39 personnel from law enforcement agencies on a temporary basis as



1 instructors without any loss of employee benefits to those  
2 instructors from those agencies;

3 ~~((12) To direct)~~ (8) Direct the development of alternative,  
4 innovative, and interdisciplinary training techniques;

5 ~~((13) To review)~~ (9) Review and approve or reject training  
6 programs conducted for criminal justice personnel and rules  
7 establishing and prescribing minimum training and education standards  
8 ~~((recommended by the training standards and education boards)),~~  
9 including continuing education;

10 ~~((14) To allocate)~~ (10) Allocate financial resources among  
11 training and education programs conducted by the commission;

12 ~~((15) To)~~ (11) Purchase, lease, or otherwise acquire, subject  
13 to the approval of the department of enterprise services, a training  
14 facility or facilities and allocate training facility space among  
15 training and education programs conducted by the commission;

16 ~~((16) To issue)~~ (12) Issue diplomas certifying satisfactory  
17 completion of any training or education program conducted or approved  
18 by the commission to any person so completing such a program;

19 ~~((17) To provide)~~ (13) Provide for the employment of such  
20 personnel as may be practical to serve as temporary replacements for  
21 any person engaged in a basic training program as defined by the  
22 commission;

23 ~~((18) To establish)~~ (14) Establish rules and regulations  
24 ~~((recommended by the training standards and education boards))~~  
25 prescribing minimum standards relating to physical, mental, and moral  
26 fitness which shall govern the recruitment of criminal justice  
27 personnel where such standards are not prescribed by statute or  
28 constitutional provision;

29 ~~((19) To require)~~ (15) Require county, city, port, or state law  
30 enforcement and corrections agencies that make a conditional offer of  
31 employment to an applicant as a fully commissioned peace officer, a  
32 reserve officer, or a corrections officer to administer a background  
33 investigation ~~((including a check of criminal history, verification~~  
34 ~~of immigrant or citizenship status as either a citizen of the United~~  
35 ~~States of America or a lawful permanent resident, a psychological~~  
36 ~~examination, and a polygraph test or similar assessment to each~~  
37 ~~applicant, the results of which shall be used by the employer to~~  
38 ~~determine the applicant's suitability for employment as a fully~~  
39 ~~commissioned peace officer, a reserve officer, or a corrections~~  
40 ~~officer. The background investigation, psychological examination, and~~

1 ~~the polygraph examination shall be administered in accordance with~~  
2 ~~the requirements of RCW 43.101.095(2) for peace officers, and RCW~~  
3 ~~43.101.096 for corrections officers. The employing county, city, or~~  
4 ~~state law enforcement agency may require that each peace officer,~~  
5 ~~reserve officer, or corrections officer who is required to take a~~  
6 ~~psychological examination and a polygraph or similar test pay a~~  
7 ~~portion of the testing fee based on the actual cost of the test or~~  
8 ~~four hundred dollars, whichever is less. County, city, and state law~~  
9 ~~enforcement agencies may establish a payment plan if they determine~~  
10 ~~that the peace officer, reserve officer, or corrections officer does~~  
11 ~~not readily have the means to pay for his or her portion of the~~  
12 ~~testing fee. This subsection does not apply to corrections officers~~  
13 ~~employed by state agencies;~~

14 ~~(20) To promote))~~ in accordance with the requirements of RCW  
15 43.101.095 to determine the applicant's suitability for employment as  
16 a fully commissioned peace officer, reserve officer, or corrections  
17 officer;

18 (16) Appoint members of a hearings panel as provided under RCW  
19 43.101.380;

20 (17) Issue public recommendations to the governing body of a law  
21 enforcement agency regarding the agency's command decisions,  
22 inadequacy of policy or training, investigations or disciplinary  
23 decisions regarding misconduct, potential systemic violations of law  
24 or policy, unconstitutional policing, or other matters;

25 (18) Promote positive relationships between law enforcement and  
26 the ~~((citizens))~~ residents of the state of Washington ~~((by allowing))~~  
27 through commissioners and staff ~~((to participate))~~ participation in  
28 the "chief for a day program." The executive director shall designate  
29 staff who may participate. In furtherance of this purpose, the  
30 commission may accept grants of funds and gifts and may use its  
31 public facilities for such purpose. At all times, the participation  
32 of commissioners and staff shall comply with chapter 42.52 RCW and  
33 chapter 292-110 WAC ~~((-~~

34 ~~All))~~);

35 (19) Adopt, amend, repeal, and administer rules and regulations  
36 ~~((adopted by the commission shall be adopted and administered))~~  
37 pursuant to the administrative procedure act, chapter 34.05 RCW, and  
38 the open public meetings act, chapter 42.30 RCW.

1       **Sec. 7.** RCW 43.101.085 and 2020 c 119 s 1 are each amended to  
2 read as follows:

3       In addition to its other powers granted under this chapter, the  
4 commission has authority and power to:

5       (1) ~~((Adopt, amend, or repeal rules as necessary to carry out  
6 this chapter;~~

7       ~~(2))~~ Contract for services as it deems necessary in order to  
8 carry out its duties and responsibilities;

9       (2) Cooperate with and secure the cooperation of any department,  
10 agency, or instrumentality in state, county, and city government, and  
11 other commissions affected by or concerned with the business of the  
12 commission;

13       (3) Select and employ an executive director, and empower the  
14 director to perform such duties and responsibilities as the  
15 commission may deem necessary;

16       (4) Issue subpoenas and statements of charges, and administer  
17 oaths in connection with investigations, hearings, or other  
18 proceedings held under this chapter, or designate individuals to do  
19 so;

20       ~~((3))~~ (5) Employ such staff as necessary for the implementation  
21 and enforcement of this chapter;

22       (6) Take or cause to be taken depositions and other discovery  
23 procedures as needed in investigations, hearings, and other  
24 proceedings held under this chapter;

25       ~~((4) Appoint members of a hearings board as provided under RCW  
26 43.101.380;~~

27       ~~(5))~~ (7) Enter into contracts for professional services  
28 determined by the commission to be necessary for adequate enforcement  
29 of this chapter;

30       ~~((6) Grant, deny, or revoke certification of peace officers and  
31 corrections officers under the provisions of this chapter;~~

32       ~~(7) Designate individuals authorized to sign subpoenas and  
33 statements of charges under the provisions of this chapter;~~

34       ~~(8) Employ such investigative, administrative, and clerical staff  
35 as necessary for the enforcement of this chapter; and~~

36       ~~(9) Grant, deny, or revoke certification of tribal police  
37 officers whose tribal governments have agreed to participate in the  
38 tribal police officer certification process)) and~~

1 (8) Exercise lawful actions necessary to enable the commission to  
2 fully and adequately perform its duties and to exercise the lawful  
3 powers granted to the commission.

4 **Sec. 8.** RCW 43.101.095 and 2018 c 32 s 5 are each amended to  
5 read as follows:

6 (1) As a condition of ~~((continuing))~~ employment ~~((as peace~~  
7 ~~officers))~~, all Washington peace officers ~~((:-(a) Shall timely obtain~~  
8 ~~certification as peace officers, or timely obtain certification or~~  
9 ~~exemption therefrom, by meeting all requirements of RCW 43.101.200,~~  
10 ~~as that section is administered under the rules of the commission, as~~  
11 ~~well by meeting any additional requirements under this chapter; and~~  
12 ~~(b) shall maintain the basic certification as peace officers under~~  
13 ~~this chapter))~~ and corrections officers are required to obtain  
14 certification as a peace officer or corrections officer or exemption  
15 therefrom and maintain certification as required by this chapter and  
16 the rules of the commission.

17 (2) (a) ~~((As a condition of continuing employment for any))~~ Any  
18 applicant who has been offered a conditional offer of employment as a  
19 ~~((fully commissioned))~~ peace officer or ~~((a))~~ reserve officer ~~((after~~  
20 ~~July 24, 2005))~~ or offered a conditional offer of employment as a  
21 corrections officer after July 1, 2021, including any person whose  
22 certification has lapsed as a result of a break of more than  
23 ~~((twenty-four))~~ 24 consecutive months in the officer's service ~~((as a~~  
24 ~~fully commissioned peace officer or reserve officer, the applicant~~  
25 ~~shall))~~ for a reason other than being recalled to military service,  
26 must submit to a background investigation ~~((including a))~~ to  
27 determine the applicant's suitability for employment. Employing  
28 agencies may only make a conditional offer of employment pending  
29 completion of the background check and shall verify in writing to the  
30 commission that they have complied with all background check  
31 requirements prior to making any nonconditional offer of employment.

32 (b) The background check must include:

33 (i) A check of criminal history, ~~((verification))~~ any national  
34 decertification index, commission records, and all disciplinary  
35 records by any previous law enforcement or correctional employer,  
36 including complaints or investigations of misconduct and the reason  
37 for separation from employment. Law enforcement or correctional  
38 agencies that previously employed the applicant shall disclose  
39 employment information within 30 days of receiving a written request

1 from the employing agency conducting the background investigation,  
2 including the reason for the officer's separation from the agency.  
3 Complaints or investigations of misconduct must be disclosed  
4 regardless of the result of the investigation or whether the  
5 complaint was unfounded;

6 (ii) Inquiry to the local prosecuting authority in any  
7 jurisdiction in which the applicant has served as to whether the  
8 applicant is on any potential impeachment disclosure list;

9 (iii) Inquiry into whether the applicant has any past or present  
10 affiliations with extremist organizations, as defined by the  
11 commission;

12 (iv) A review of the applicant's social media accounts;

13 (v) Verification of immigrant or citizenship status as either a  
14 citizen of the United States of America or a lawful permanent  
15 resident((,—a));

16 (vi) A psychological examination((,—and—a)) administered by a  
17 psychiatrist licensed in the state of Washington pursuant to chapter  
18 18.71 RCW or a psychologist licensed in the state of Washington  
19 pursuant to chapter 18.83 RCW, in compliance with standards  
20 established in rules of the commission;

21 (vii) A polygraph or similar assessment ((as)) administered by  
22 ((the county, city, or state law enforcement agency, the results of  
23 which shall be used to determine the applicant's suitability for  
24 employment as a fully commissioned peace officer or a reserve  
25 officer.

26 ~~(i) The background investigation including a check of criminal~~  
27 ~~history shall be administered by the county, city, or state law~~  
28 ~~enforcement agency that made the conditional offer of employment in~~  
29 ~~compliance with standards established in the rules of the commission.~~

30 ~~(ii) The psychological examination shall be administered by a~~  
31 ~~psychiatrist licensed in the state of Washington pursuant to chapter~~  
32 ~~18.71 RCW or a psychologist licensed in the state of Washington~~  
33 ~~pursuant to chapter 18.83 RCW, in compliance with standards~~  
34 ~~established in rules of the commission.~~

35 ~~(iii) The polygraph test shall be administered by an experienced~~  
36 ~~polygrapher who is a graduate of a polygraph school accredited by the~~  
37 ~~American polygraph association and in compliance with standards~~  
38 ~~established in rules of the commission.~~

1 ~~(iv))~~ an experienced professional with appropriate training and  
2 in compliance with standards established in rules of the commission;  
3 and

4 (viii) Any other test or assessment ~~((to be administered as part~~  
5 ~~of the background investigation shall be administered in compliance~~  
6 ~~with standards established in rules of))~~ that may be required in rule  
7 by the commission.

8 ~~((b))~~ (c) The commission may establish standards for the  
9 background check requirements in this section and any other  
10 preemployment background check requirement that may be imposed by an  
11 employing agency or the commission.

12 (d) The employing ~~((county, city, or state))~~ law enforcement  
13 agency may require that each ~~((peace officer or reserve officer))~~  
14 person who is required to take a psychological examination and a  
15 polygraph or similar test pay a portion of the testing fee based on  
16 the actual cost of the test or ~~((four hundred dollars))~~ \$400,  
17 whichever is less. ~~((County, city, and state law enforcement))~~  
18 Employing agencies may establish a payment plan if they determine  
19 that the ~~((peace officer or reserve officer))~~ person does not readily  
20 have the means to pay ~~((for his or her portion of))~~ the testing fee.

21 (3) ~~((The commission shall certify peace officers who have~~  
22 ~~satisfied, or have been exempted by statute or by rule from, the~~  
23 ~~basic training requirements of RCW 43.101.200 on or before January 1,~~  
24 ~~2002. Thereafter, the commission may revoke certification pursuant to~~  
25 ~~this chapter.~~

26 ~~(4))~~ The commission shall allow a peace officer or corrections  
27 officer to retain status as a certified peace officer or corrections  
28 officer as long as the officer: (a) Timely meets the basic ~~((law~~  
29 ~~enforcement))~~ training requirements, or is exempted therefrom, in  
30 whole or in part, under RCW 43.101.200 or under rule of the  
31 commission; (b) timely meets or is exempted from any other  
32 requirements under this chapter as administered under the rules  
33 adopted by the commission; (c) is not denied certification by the  
34 commission under this chapter; and (d) has not had certification  
35 suspended or revoked by the commission.

36 ~~((5))~~ (4) As a ~~((prerequisite to))~~ condition of certification,  
37 ~~((as well as a prerequisite to pursuit of a hearing under RCW~~  
38 ~~43.101.155,))~~ a peace officer or corrections officer must, on a form  
39 devised or adopted by the commission, authorize the release to the  
40 employing agency and commission of ~~((his or her))~~ the officer's

1 personnel files, including disciplinary, termination ((papers)),  
2 civil or criminal investigation ((files)), or other ((files,  
3 papers,)) records or information that are directly related to a  
4 certification matter or decertification matter before the commission.  
5 The peace officer or corrections officer must also consent to and  
6 facilitate a review of the officer's social media accounts, however,  
7 consistent with RCW 49.44.200, the officer is not required to provide  
8 login information. The release of information may not be delayed,  
9 limited, or precluded by any agreement or contract between the  
10 officer, or the officer's union, and the entity responsible for the  
11 records or information.

12 ((+6)) (5) The employing agency and commission ((is)) are  
13 authorized to receive criminal history record information that  
14 includes nonconviction data for any purpose associated with  
15 employment ((by the commission)) or ((peace officer)) certification  
16 under this chapter. Dissemination or use of nonconviction data for  
17 purposes other than that authorized in this section is prohibited.

18 ((+7)) (6) For a national criminal history records check, the  
19 commission shall require fingerprints be submitted and searched  
20 through the Washington state patrol identification and criminal  
21 history section. The Washington state patrol shall forward the  
22 fingerprints to the federal bureau of investigation.

23 (7) Prior to certification, the employing agency shall certify to  
24 the commission that the agency has completed the background check, no  
25 information has been found that would disqualify the applicant from  
26 certification, and the applicant is suitable for employment as a  
27 peace officer or corrections officer.

28 **Sec. 9.** RCW 43.101.105 and 2011 c 234 s 3 are each amended to  
29 read as follows:

30 (1) ((Upon)) To help prevent misconduct, enhance peace officer  
31 and corrections officer accountability through the imposition of  
32 sanctions commensurate to the wrongdoing when misconduct occurs, and  
33 enhance public trust and confidence in the criminal justice system,  
34 upon request by ((a peace)) an officer's employer or on its own  
35 initiative, the commission may deny, suspend, or revoke certification  
36 of ((any peace)), or require remedial training for, an officer((  
37 after)) as provided in this section. The commission shall provide the  
38 officer with written notice and a hearing, if a hearing is timely

1 requested by the ((peace)) officer under RCW 43.101.155 ((, based upon  
2 a finding of one or more of the following conditions:

3 (a) ~~The peace officer has failed to timely meet all requirements  
4 for obtaining a certificate of basic law enforcement training, a  
5 certificate of basic law enforcement training equivalency, or a  
6 certificate of exemption from the training;~~

7 (b) ~~The peace officer has knowingly falsified or omitted material  
8 information on an application for training or certification to the  
9 commission;~~

10 (c) ~~The peace officer has been convicted at any time of a felony  
11 offense under the laws of this state or has been convicted of a  
12 federal or out-of-state offense comparable to a felony under the laws  
13 of this state; except that if a certified peace officer was convicted  
14 of a felony before being employed as a peace officer, and the  
15 circumstances of the prior felony conviction were fully disclosed to  
16 his or her employer before being hired, the commission may revoke  
17 certification only with the agreement of the employing law  
18 enforcement agency;~~

19 (d) ~~The peace officer has been discharged for disqualifying  
20 misconduct, the discharge is final, and some or all of the acts or  
21 omissions forming the basis for the discharge proceedings occurred on  
22 or after January 1, 2002;~~

23 (e) ~~The peace officer's certificate was previously issued by  
24 administrative error on the part of the commission; or~~

25 (f) ~~The peace officer has interfered with an investigation or  
26 action for denial or revocation of certificate by: (i) Knowingly  
27 making a materially false statement to the commission; or (ii) in any  
28 matter under investigation by or otherwise before the commission,  
29 tampering with evidence or tampering with or intimidating any  
30 witness)). Notice and hearing are not required when a peace officer  
31 voluntarily surrenders certification.~~

32 (2) ((After July 24, 2005, the)) The commission must deny or  
33 revoke the certification of an applicant or officer if the applicant  
34 or officer:

35 (a) (i) Has been convicted of:

36 (A) A felony offense;

37 (B) A gross misdemeanor domestic violence offense;

38 (C) An offense with sexual motivation as defined in RCW  
39 9.94A.030;

40 (D) An offense under chapter 9A.44 RCW; or



1 (E) A federal or out-of-state offense comparable to an offense  
2 listed in (a) (i) (A) through (D) of this subsection (2); and

3 (ii) (A) The offense was not disclosed at the time of application  
4 for initial certification; or

5 (B) The officer was a certified peace officer or corrections  
6 officer at the time of the offense; and

7 (iii) The offense is not one for which the officer was granted a  
8 full and unconditional pardon; and

9 (iv) The offense was not adjudicated as a juvenile and the record  
10 sealed;

11 (b) Has been terminated by the employing agency or otherwise  
12 separated from the employing agency after engaging in, or was found  
13 by a court to have engaged in, the use of force which resulted in  
14 death or serious injury and the use of force violated the law;

15 (c) Has been terminated by the employing agency or otherwise  
16 separated from the employing agency after witnessing, or found by a  
17 court to have witnessed, another officer's use of excessive force  
18 and:

19 (i) Was in a position to intervene to end the excessive use of  
20 force and failed to do so; or

21 (ii) Failed to report the use of excessive force in accordance  
22 with agency policy or law;

23 (d) Has been terminated by the employing agency or otherwise  
24 separated from the employing agency after knowingly making, or found  
25 by a court to have knowingly made, misleading, deceptive, untrue, or  
26 fraudulent representations in the practice of being a peace officer  
27 or corrections officer including, but not limited to, committing  
28 perjury, filing false reports, hiding evidence, or failing to report  
29 exonerating information. This subsection (2) (d) does not apply to  
30 representations made in the course and for the purposes of an  
31 undercover investigation or other lawful law enforcement purpose; or

32 (e) Is prohibited from possessing weapons by state or federal law  
33 or by a permanent court order entered after a hearing.

34 (3) The commission may deny, suspend, or revoke certification or  
35 require remedial training of an applicant or officer if the applicant  
36 or officer:

37 (a) Failed to timely meet all requirements for obtaining a  
38 certificate of basic law enforcement or corrections training, a  
39 certificate of basic law enforcement or corrections training  
40 equivalency, or a certificate of exemption from the training;

1 (b) Was previously issued a certificate through administrative  
2 error on the part of the commission;

3 (c) Knowingly falsified or omitted material information on an  
4 application to the employer or for training or certification to the  
5 commission;

6 (d) Interfered with an investigation or action for denial or  
7 revocation of certification by:

8 (i) Knowingly making a materially false statement to the  
9 commission;

10 (ii) Failing to timely and accurately report information to the  
11 commission as required by law or policy; or

12 (iii) In any matter under review or investigation by or otherwise  
13 before the commission, tampering with evidence or tampering with or  
14 intimidating any witness;

15 (e) Engaged in a use of force that could reasonably be expected  
16 to cause physical injury, and the use of force violated the law or  
17 policy of the officer's employer;

18 (f) Committed sexual harassment as defined by state law;

19 (g) Through fraud or misrepresentation, has used the position of  
20 peace officer or corrections officer for personal gain;

21 (h) Engaged in conduct including, but not limited to, verbal  
22 statements, writings, online posts, recordings, and gestures,  
23 involving prejudice or discrimination against a person on the basis  
24 of race, religion, creed, color, national origin, immigration status,  
25 disability, genetic information, marital status, sex, gender, gender  
26 identity, gender expression, age, sexual orientation, or military and  
27 veteran status;

28 (i) Has affiliation with one or more extremist organizations;

29 (j) Whether occurring on or off duty, has:

30 (i) Been found to have committed a felony, without regard to  
31 conviction;

32 (ii) Engaged in a pattern of acts showing an intentional or  
33 reckless disregard for the rights of others, including but not  
34 limited to violation of an individual's constitutional rights under  
35 the state or federal constitution or a violation of RCW 10.93.160;

36 (iii) Engaged in unsafe practices involving firearms, weapons, or  
37 vehicles which indicate either a willful or wanton disregard for the  
38 safety of persons or property; or

39 (iv) Engaged in any conduct or pattern of conduct that: Fails to  
40 meet the ethical and professional standards required of a peace

1 officer or corrections officer; disrupts, diminishes, or otherwise  
2 jeopardizes public trust or confidence in the law enforcement  
3 profession and correctional system; or demonstrates an inability or  
4 unwillingness to uphold the officer's sworn oath to enforce the  
5 constitution and laws of the United States and the state of  
6 Washington;

7 (k) Has been suspended or discharged, has resigned or retired in  
8 lieu of discharge, or has separated from the agency after the alleged  
9 misconduct occurred, for any conduct listed in this section; or

10 (l) Has voluntarily surrendered the person's certification as a  
11 peace officer or corrections officer.

12 (4) In addition to the penalties set forth in subsection (3) of  
13 this section, the commission may require mandatory retraining or  
14 placement on probation for up to two years, or both. In determining  
15 the appropriate penalty or sanction, the commission shall consider:  
16 The findings and conclusions, and the basis for the findings and  
17 conclusions, of any due process hearing or disciplinary appeals  
18 hearing following an investigation by a law enforcement agency  
19 regarding the alleged misconduct, if such hearing has occurred prior  
20 to the commission's action; any sanctions or training ordered by the  
21 employing agency regarding the alleged misconduct; and whether the  
22 employing agency bears any responsibility for the situation.

23 (5) The commission shall deny certification to any applicant who  
24 ((has)) lost ((his or her)) certification as a result of a break in  
25 service of more than ((~~twenty-four~~)) 24 consecutive months if that  
26 applicant failed to comply with the requirements set forth in RCW  
27 43.101.080((~~19~~)) (15) and 43.101.095(2).

28 (6) The fact that the commission has suspended an officer's  
29 certification is not, in and of itself, a bar to the employing  
30 agency's maintenance of the officer's health and retirement benefits.

31 (7) Any suspension or period of probation imposed by the  
32 commission shall run concurrently to any leave or discipline imposed  
33 by the employing agency for the same incident.

34 (8) A law enforcement agency may not terminate a peace officer  
35 based solely on imposition of suspension or probation by the  
36 commission. This subsection does not prohibit a law enforcement  
37 agency from terminating a peace officer based on the underlying acts  
38 or omissions for which the commission took such action.

39 (9) Any of the misconduct listed in subsections (2) and (3) of  
40 this section is grounds for denial, suspension, or revocation of

1 certification of a reserve officer to the same extent as applied to a  
2 peace officer, if the reserve officer is certified pursuant to RCW  
3 43.101.095.

4 **Sec. 10.** RCW 43.101.115 and 2001 c 167 s 4 are each amended to  
5 read as follows:

6 (1) A person denied a certification based upon dismissal or  
7 withdrawal from a basic law enforcement academy (~~(for any reason not~~  
8 ~~also involving discharge for disqualifying misconduct)) or basic~~

9 corrections academy under RCW 43.101.105(3)(a) is eligible for  
10 readmission and certification upon meeting standards established in  
11 rules of the commission, which rules may provide for probationary  
12 terms on readmission.

13 (2) A person whose certification is denied or revoked based upon  
14 prior administrative error of issuance, failure to cooperate, or  
15 interference with an investigation is eligible for certification upon  
16 meeting standards established in rules of the commission, (~~rules~~  
17 ~~which may~~) which rules shall provide for a probationary period of  
18 certification in the event of reinstatement of eligibility.

19 (3) A person whose certification is mandatorily denied or revoked  
20 (~~based upon a felony criminal conviction~~) pursuant to RCW  
21 43.101.105(2) is not eligible for certification at any time.

22 (4) A (~~peace officer~~) person whose certification is denied or  
23 revoked (~~based upon discharge for disqualifying misconduct, but not~~  
24 ~~also based upon a felony criminal conviction,~~) for reasons other  
25 than provided in subsections (1) through (3) of this section may,  
26 five years after the revocation or denial, petition the commission  
27 for reinstatement of the certificate or for eligibility for  
28 reinstatement. The commission (~~shall~~) may hold a hearing on the  
29 petition to consider reinstatement, and the commission may allow  
30 reinstatement based upon standards established in rules of the  
31 commission. If the certificate is reinstated or eligibility for  
32 certification is determined, the commission (~~may~~) shall establish a  
33 probationary period of certification.

34 (5) A (~~peace officer~~) person whose certification is revoked  
35 based solely upon a criminal conviction may petition the commission  
36 for reinstatement immediately upon a final judicial reversal of the  
37 conviction. The commission shall hold a hearing on request to  
38 consider reinstatement, and the commission may allow reinstatement  
39 based on standards established in rules of the commission. If the

1 certificate is reinstated or if eligibility for certification is  
2 determined, the commission (~~may~~) shall establish a probationary  
3 period of certification.

4 (6) The commission's rules and decisions regarding reinstatement  
5 shall align with its responsibilities to enhance public trust and  
6 confidence in the law enforcement profession and correctional system.

7 **Sec. 11.** RCW 43.101.135 and 2001 c 167 s 6 are each amended to  
8 read as follows:

9 (1)(a) Upon (~~termination~~) separation of a peace officer or  
10 corrections officer from an employing agency for any reason,  
11 including ~~termination,~~ resignation, or retirement, the agency (~~of~~  
12 ~~termination~~) shall(~~, within fifteen days of the termination,~~)  
13 notify the commission within 15 days of the separation date on a  
14 personnel action report form provided by the commission. (~~The agency~~  
15 ~~of termination shall, upon~~)

16 (b) If the employer accepts an officer's resignation or  
17 retirement in lieu of termination, the employing agency shall report  
18 the reasons and rationale in the information provided to the  
19 commission, including the findings from any internal or external  
20 investigations into alleged misconduct.

21 (2) In addition to those circumstances under subsection (1) of  
22 this section and whether or not disciplinary proceedings have been  
23 concluded, the employing agency shall:

24 (a) Notify the commission within 15 days of learning of the  
25 occurrence of any death or serious injury caused by the use of force  
26 by an officer or any time an officer has been charged with a crime.  
27 Employing agencies must have a policy requiring officers to report  
28 any pending criminal charges and any conviction, plea, or other case  
29 disposition immediately to their agency; and

30 (b) Notify the commission within 15 days of an initial  
31 disciplinary decision by an employing agency for alleged behavior or  
32 conduct by an officer that is noncriminal and may result in  
33 revocation of certification pursuant to RCW 43.101.105.

34 (3) To better enable the commission to act swiftly and  
35 comprehensively when misconduct has occurred that may undermine  
36 public trust and confidence in law enforcement or the correctional  
37 system, if the totality of the circumstances support a conclusion  
38 that the officer resigned or retired in anticipation of discipline,  
39 whether or not the misconduct was discovered at the time, and when

1 such discipline, if carried forward, would more likely than not have  
2 led to discharge, or if the officer was laid off when disciplinary  
3 investigation or action was imminent or pending which could have  
4 resulted in the officer's suspension or discharge, the employing  
5 agency shall conduct and complete the investigation and provide all  
6 relevant information to the commission as if the officer were still  
7 employed by the agency.

8 (4) Upon request of the commission, the employing agency shall  
9 provide such additional documentation or information as the  
10 commission deems necessary to determine whether the ((~~termination~~))  
11 separation or event provides grounds for suspension or revocation  
12 ((~~under RCW 43.101.105~~)).

13 (5) At its discretion, the commission may:

14 (a) Initiate decertification proceedings upon conclusion of any  
15 investigation or disciplinary proceedings initiated by the employing  
16 agency;

17 (b) Separately pursue action against the officer's certification  
18 under RCW 43.101.105; or

19 (c) Wait to proceed until any investigation, disciplinary  
20 proceedings, or appeals through the employing agency are final before  
21 taking action. Where a decertification decision requires a finding  
22 that the officer's conduct violated policy and the employing agency  
23 has begun its investigation into the underlying event, the commission  
24 shall await notification of a finding by the employing agency before  
25 beginning the decertification process.

26 (6) No action or failure to act by an employing agency or  
27 decision resulting from an appeal of that action precludes action by  
28 the commission to suspend or revoke an officer's certification.

29 (7) An employing agency may not enter into any agreement or  
30 contract with an officer, or union:

31 (a) Not to report conduct, delay reporting, or preclude  
32 disclosure of any relevant information, including a promise not to  
33 check the box on a commission notice that indicates the officer may  
34 have committed misconduct, in exchange for allowing an officer to  
35 resign or retire or for any other reason; or

36 (b) That allows the agency to destroy or remove any personnel  
37 record while the officer is employed and for 10 years thereafter.  
38 Such records must include all misconduct and equal employment  
39 opportunity complaints, progressive discipline imposed including  
40 written reprimands, supervisor coaching, suspensions, involuntary

1 transfers, investigatory files, and other disciplinary appeals and  
2 litigation records.

3 (8) The commission shall maintain ((these—notice)) all  
4 information provided pursuant to this section in a permanent file((7  
5 subject to RCW 43.101.400)).

6 (9) In addition to disciplinary action authorized in RCW  
7 43.101.105, the commission may impose a civil penalty not to exceed  
8 \$10,000 for the failure by an officer or an employing agency to  
9 timely and accurately report information pursuant to this section.

10 **Sec. 12.** RCW 43.101.145 and 2001 c 167 s 8 are each amended to  
11 read as follows:

12 ~~((A law enforcement officer or duly authorized representative of~~  
13 ~~a law enforcement agency)) (1) Any individual may submit a written  
14 complaint to the commission ~~((charging))~~ stating that ~~((a peace))~~ an  
15 officer's certificate should be denied, suspended, or revoked, and  
16 specifying the grounds for the ~~((charge))~~ complaint. Filing a  
17 complaint does not make a complainant a party to the commission's  
18 action.~~

19 (2) The commission has sole discretion whether to investigate a  
20 complaint, and the commission has sole discretion whether to  
21 investigate matters relating to certification, denial of  
22 certification, or revocation of certification on any other basis,  
23 without restriction as to the source or the existence of a complaint.  
24 All complaints must be resolved with a written determination,  
25 regardless of the decision to investigate.

26 (3) The commission may initiate an investigation in any instance  
27 where there is a pattern of complaints or other actions that may not  
28 have resulted in a formal adjudication of wrongdoing, but when  
29 considered together demonstrate conduct that would constitute a  
30 violation of RCW 43.101.105 (2) or (3). The commission must consider  
31 the agency's policies and procedures and the officer's job duties and  
32 assignment in determining what constitutes a pattern.

33 (4) A person who files a complaint in good faith under this  
34 section is immune from suit or any civil action related to the filing  
35 or the contents of the complaint.

36 **Sec. 13.** RCW 43.101.155 and 2001 c 167 s 9 are each amended to  
37 read as follows:

1 (1) If the commission determines, upon investigation, that there  
2 is ~~((probable))~~ cause to believe that a peace officer's or  
3 corrections officer's certification should be denied, suspended, or  
4 revoked under RCW 43.101.105, the commission must prepare and serve  
5 upon the officer a statement of charges. Service on the officer must  
6 be by mail or by personal service on the officer unless the officer  
7 has consented to service in some other manner, including electronic  
8 notification. Notice of the charges must also be mailed to or  
9 otherwise served upon the officer's agency of ~~((termination))~~  
10 separation and any current ~~((law-enforcement))~~ agency employer. The  
11 statement of charges must be accompanied by a notice that to receive  
12 a hearing on the denial or revocation, the officer must, within  
13 ~~((sixty))~~ 60 days of ~~((communication-of))~~ the statement of charges,  
14 request a hearing before the hearings ~~((board))~~ panel appointed under  
15 RCW 43.101.380. Failure of the officer to request a hearing within  
16 the ~~((sixty-day))~~ 60-day period constitutes a default, whereupon the  
17 commission may enter an order under RCW 34.05.440.

18 (2) If a hearing is requested, the officer is required to provide  
19 an email address that constitutes the officer's legal address for  
20 purposes of any subsequent communication from the commission. Unless  
21 otherwise agreed to by the mutual agreement of the parties or for  
22 good cause, within two weeks of receipt of the officer's request for  
23 a hearing, the commission shall set a date ~~((of))~~ for the hearing,  
24 which must be ~~((scheduled not earlier than ninety days nor later than~~  
25 ~~one hundred eighty days after communication of the statement of~~  
26 ~~charges to the officer; the one hundred eighty-day period may be~~  
27 ~~extended on mutual agreement of the parties or for good cause))~~ held  
28 within 90 days thereafter. ~~((The))~~ On the date the hearing is set,  
29 the commission shall ~~((give))~~ transmit electronic and written notice  
30 of the hearing ~~((at least twenty days prior to the hearing))~~ to the  
31 officer, and provide public notice on the commission website,  
32 specifying the time, date, and place of hearing.

33 **Sec. 14.** RCW 43.101.157 and 2006 c 22 s 2 are each amended to  
34 read as follows:

35 (1) Tribal governments may voluntarily request certification for  
36 their police officers. Tribal governments requesting certification  
37 for their police officers must enter into a written agreement with  
38 the commission. The agreement must require the tribal law enforcement  
39 agency and its officers to comply with all of the requirements for



1 granting, denying, and revoking certification as those requirements  
2 are applied to peace officers certified under this chapter and the  
3 rules of the commission.

4 (2) Officers making application for certification as tribal  
5 police officers shall meet the requirements of this chapter and the  
6 rules of the commission as those requirements are applied to  
7 certification of peace officers. Application for certification as a  
8 tribal police officer shall be accepted and processed in the same  
9 manner as those for certification of peace officers.

10 ~~((3) For purposes of certification, "tribal police officer"~~  
11 ~~means any person employed and commissioned by a tribal government to~~  
12 ~~enforce the criminal laws of that government.))~~

13 **Sec. 15.** RCW 43.101.230 and 1981 c 134 s 1 are each amended to  
14 read as follows:

15 ~~((Indian tribe))~~ Tribal police officers and employees who are  
16 engaged in law enforcement activities and who do not qualify as  
17 "criminal justice personnel" or "law enforcement personnel" under RCW  
18 43.101.010 ~~((, as now law or hereafter amended, may))~~ shall be  
19 provided training under this chapter if: (a) The tribe is recognized  
20 by the federal government, and (b) the tribe pays to the commission  
21 the full cost of providing such training. The commission shall place  
22 all money received under this section into the criminal justice  
23 training account.

24 **Sec. 16.** RCW 43.101.390 and 2001 c 167 s 11 are each amended to  
25 read as follows:

26 (1) The commission ~~((, its boards,))~~ and individuals acting on  
27 behalf of the commission ~~((and its boards))~~ are immune from suit in  
28 any civil or criminal action contesting or based upon proceedings or  
29 other official acts performed in the course of their duties in the  
30 administration and enforcement of this chapter.

31 (2) Without limiting the generality of the foregoing, the  
32 commission and individuals acting on behalf of the commission are  
33 immune from suit in any civil action based on the certification,  
34 denial of certification, suspension, or other action regarding  
35 decertification of peace officers, reserve officers, or corrections  
36 officers.

1       **Sec. 17.** RCW 43.101.420 and 2009 c 19 s 1 are each amended to  
2 read as follows:

3       (1) The commission shall offer a training session on personal  
4 crisis recognition and crisis intervention services to criminal  
5 justice, (~~correctional personnel~~) corrections, and other public  
6 safety employees. The training shall be implemented by the commission  
7 in consultation with appropriate public and private organizations  
8 that have expertise in crisis referral services and in the underlying  
9 conditions leading to the need for crisis referral.

10       (2) The training shall consist of a minimum of one hour of  
11 classroom or internet instruction, and shall include instruction on  
12 the following subjects:

13       (a) The description and underlying causes of problems that may  
14 have an impact on the personal and professional lives of public  
15 safety employees, including mental health issues, chemical  
16 dependency, domestic violence, financial problems, and other personal  
17 crises;

18       (b) Techniques by which public safety employees may recognize the  
19 conditions listed in (a) of this subsection and understand the need  
20 to seek assistance and obtain a referral for consultation and  
21 possible treatment; and

22       (c) A listing of examples of public and private crisis referral  
23 agencies available to public safety employees.

24       (3) The training developed by the commission shall be made  
25 available by the commission to all employees of state and local  
26 agencies that perform public safety duties. The commission may charge  
27 a reasonable fee to defer the cost of making the training available.

28       **Sec. 18.** RCW 34.12.035 and 1984 c 141 s 6 are each amended to  
29 read as follows:

30       The chief administrative law judge shall designate an  
31 administrative law judge with subject matter expertise to serve, as  
32 the need arises, as presiding officer in (~~state~~):

33       (1) State patrol disciplinary hearings conducted under RCW  
34 43.43.090; and

35       (2) Decertification hearings conducted under RCW 43.101.380.

36       **Sec. 19.** RCW 40.14.070 and 2011 c 60 s 18 are each amended to  
37 read as follows:

1 (1) (a) (~~County~~) Other than those records detailed in subsection  
2 (4) of this section, county, municipal, and other local government  
3 agencies may request authority to destroy noncurrent public records  
4 having no further administrative or legal value by submitting to the  
5 division of archives and records management lists of such records on  
6 forms prepared by the division. The archivist, a representative  
7 appointed by the state auditor, and a representative appointed by the  
8 attorney general shall constitute a committee, known as the local  
9 records committee, which shall review such lists and which may veto  
10 the destruction of any or all items contained therein.

11 (b) A local government agency, as an alternative to submitting  
12 lists, may elect to establish a records control program based on  
13 recurring disposition schedules recommended by the agency to the  
14 local records committee. The schedules are to be submitted on forms  
15 provided by the division of archives and records management to the  
16 local records committee, which may either veto, approve, or amend the  
17 schedule. Approval of such schedule or amended schedule shall be by  
18 unanimous vote of the local records committee. Upon such approval,  
19 the schedule shall constitute authority for the local government  
20 agency to destroy the records listed thereon, after the required  
21 retention period, on a recurring basis until the schedule is either  
22 amended or revised by the committee.

23 (2) (a) Except as otherwise provided by law, and other than the  
24 law enforcement records detailed in subsection (4) of this section,  
25 no public records shall be destroyed until approved for destruction  
26 by the local records committee. Official public records shall not be  
27 destroyed unless:

28 (i) The records are six or more years old;

29 (ii) The department of origin of the records has made a  
30 satisfactory showing to the state records committee that the  
31 retention of the records for a minimum of six years is both  
32 unnecessary and uneconomical, particularly where lesser federal  
33 retention periods for records generated by the state under federal  
34 programs have been established; or

35 (iii) The originals of official public records less than six  
36 years old have been copied or reproduced by any photographic,  
37 photostatic, microfilm, miniature photographic, or other process  
38 approved by the state archivist which accurately reproduces or forms  
39 a durable medium for so reproducing the original.

1 An automatic reduction of retention periods from seven to six  
2 years for official public records on record retention schedules  
3 existing on June 10, 1982, shall not be made, but the same shall be  
4 reviewed individually by the local records committee for approval or  
5 disapproval of the change to a retention period of six years.

6 The state archivist may furnish appropriate information,  
7 suggestions, and guidelines to local government agencies for their  
8 assistance in the preparation of lists and schedules or any other  
9 matter relating to the retention, preservation, or destruction of  
10 records under this chapter. The local records committee may adopt  
11 appropriate regulations establishing procedures to be followed in  
12 such matters.

13 Records of county, municipal, or other local government agencies,  
14 designated by the archivist as of primarily historical interest, may  
15 be transferred to a recognized depository agency.

16 (b) (i) Records of investigative reports prepared by any state,  
17 county, municipal, or other law enforcement agency pertaining to sex  
18 offenders contained in chapter 9A.44 RCW or sexually violent offenses  
19 as defined in RCW 71.09.020 that are not required in the current  
20 operation of the law enforcement agency or for pending judicial  
21 proceedings shall, following the expiration of the applicable  
22 schedule of the law enforcement agency's retention of the records, be  
23 transferred to the Washington association of sheriffs and police  
24 chiefs for permanent electronic retention and retrieval. Upon  
25 electronic retention of any document, the association shall be  
26 permitted to destroy the paper copy of the document.

27 (ii) Any sealed record transferred to the Washington association  
28 of sheriffs and police chiefs for permanent electronic retention and  
29 retrieval, including records sealed after transfer, shall be  
30 electronically retained in such a way that the record is clearly  
31 marked as sealed.

32 (iii) The Washington association of sheriffs and police chiefs  
33 shall be permitted to destroy both the paper copy and electronic  
34 record of any offender verified as deceased.

35 (c) Any record transferred to the Washington association of  
36 sheriffs and police chiefs pursuant to (b) of this subsection shall  
37 be deemed to no longer constitute a public record pursuant to RCW  
38 42.56.010 and shall be exempt from public disclosure. Such records  
39 shall be disseminated only to criminal justice agencies as defined in  
40 RCW 10.97.030 for the purpose of determining if a sex offender met

1 the criteria of a sexually violent predator as defined in chapter  
2 71.09 RCW and the end-of-sentence review committee as defined by RCW  
3 72.09.345 for the purpose of fulfilling its duties under RCW  
4 71.09.025 and 9.95.420.

5 Electronic records marked as sealed shall only be accessible by  
6 criminal justice agencies as defined in RCW 10.97.030 who would  
7 otherwise have access to a sealed paper copy of the document, the  
8 end-of-sentence review committee as defined by RCW 72.09.345 for the  
9 purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420,  
10 and the system administrator for the purposes of system  
11 administration and maintenance.

12 (3) Except as otherwise provided by law, county, municipal, and  
13 other local government agencies may, as an alternative to destroying  
14 noncurrent public records having no further administrative or legal  
15 value, donate the public records to the state library, local library,  
16 historical society, genealogical society, or similar society or  
17 organization.

18 Public records may not be donated under this subsection unless:

19 (a) The records are seventy years old or more;

20 (b) The local records committee has approved the destruction of  
21 the public records; and

22 (c) The state archivist has determined that the public records  
23 have no historic interest.

24 (4) Personnel records for any peace officer or corrections  
25 officer must be retained for the duration of the officer's employment  
26 and a minimum of 10 years thereafter. Such records include all  
27 misconduct and equal employment opportunity complaints, progressive  
28 discipline imposed including written reprimands, supervisor coaching,  
29 suspensions, involuntary transfers, other disciplinary appeals and  
30 litigation records, and any other records needed to comply with the  
31 requirements set forth in RCW 43.101.095 and 43.101.135.

32 **Sec. 20.** RCW 43.101.380 and 2020 c 119 s 10 are each amended to  
33 read as follows:

34 (1) The procedures governing adjudicative proceedings before  
35 agencies under chapter 34.05 RCW, the administrative procedure act,  
36 govern hearings before the commission and govern all other actions  
37 before the commission unless otherwise provided in this chapter. The  
38 standard of proof in actions before the commission is (~~clear,~~  
39 ~~eogent,~~ and ~~convincing~~) a preponderance of the evidence.

1 (2) In all hearings requested under RCW 43.101.155 (~~or~~  
2 ~~43.101.156~~)), an administrative law judge appointed under chapter  
3 34.12 RCW shall be the presiding officer, shall make all necessary  
4 rulings in the course of the hearing, and shall issue a proposed  
5 recommendation, but is not entitled to vote. In addition, a five-  
6 member hearings panel shall (~~both~~) hear the case and make the  
7 commission's final administrative decision. (~~Members of the~~  
8 commission may, but need not, be appointed to the hearings panels.)

9 (3) The commission shall appoint (~~as follows two or more~~  
10 ~~panels~~) a panel to hear certification actions as follows:

11 (a) When a hearing is requested in relation to a certification  
12 action of a Washington peace officer (~~who is not a peace officer of~~  
13 ~~the Washington state patrol~~)), the commission shall appoint to the  
14 panel: (i) One police chief(~~;~~ ~~(ii) one~~) or sheriff from an agency  
15 not a current or past employer of the peace officer; (~~(iii) two~~)  
16 (ii) one certified Washington peace officer(~~s~~) who (~~are~~) is at or  
17 below the level of first line supervisor(~~, one of whom is from a~~  
18 ~~city or county law enforcement agency,~~) and who (~~have~~) has at  
19 least ten years' experience as a peace officer(~~s~~); (~~and (iv) one~~  
20 ~~person who is not currently a peace officer and who represents a~~  
21 ~~community college or four-year college or university~~) (iii) one  
22 civilian member of the commission as appointed under RCW  
23 43.101.030(1) (f) and (h) through (j); (iv) one member of the public  
24 who is not a prosecutor, defense attorney, judge, or law enforcement  
25 officer; and (v) one person with expertise and background in police  
26 accountability who is not a current or former peace officer or  
27 corrections officer.

28 (b) (~~When a hearing is requested in relation to a certification~~  
29 ~~action of a peace officer of the Washington state patrol, the~~  
30 ~~commission shall appoint to the panel: (i) Either one police chief or~~  
31 ~~one sheriff; (ii) one administrator of the state patrol; (iii) one~~  
32 ~~certified Washington peace officer who is at or below the level of~~  
33 ~~first line supervisor, who is not a state patrol officer, and who has~~  
34 ~~at least ten years' experience as a peace officer; (iv) one state~~  
35 ~~patrol officer who is at or below the level of first line supervisor,~~  
36 ~~and who has at least ten years' experience as a peace officer; and~~  
37 ~~(v) one person who is not currently a peace officer and who~~  
38 ~~represents a community college or four-year college or university.~~

39 (~~e~~) When a hearing is requested in relation to a certification  
40 action of a Washington corrections officer, the commission shall

1 appoint to the panel: (i) ~~((Two heads of))~~ A person who heads either  
2 a city or county corrections agency or facility or of a Washington  
3 state department of corrections facility; (ii) ~~((two))~~ one  
4 corrections officer(s) who (are) is at or below the level of  
5 first line supervisor ~~(, who are from city, county, or state~~  
6 ~~corrections agencies,))~~ and who ~~((have))~~ has at least ten years'  
7 experience as a corrections officer(s); (iii) one civilian member  
8 of the commission as appointed under RCW 43.101.030(1) (f) and (h)  
9 through (j); (iv) one member of the public who is not a prosecutor,  
10 defense attorney, judge, or law enforcement officer; and ((-iii-))  
11 (v) one person with expertise and background in police accountability  
12 who is not ((currently)) a current or former peace officer or  
13 corrections officer ((and who represents a community college or four-  
14 year college or university)).

15 ~~((-d-))~~ (c) When a hearing is requested in relation to a  
16 certification action of a tribal police officer, the commission shall  
17 appoint to the panel (i) ~~((either one police chief or one sheriff;~~  
18 ~~(-ii-))~~ one tribal police chief; ((-iii) one certified Washington  
19 peace officer who is at or below the level of first line supervisor,  
20 and who has at least ten years' experience as a peace officer; (-iv-))  
21 (ii) one tribal police officer who is at or below the level of first  
22 line supervisor, and who has at least ten years' experience as a  
23 peace officer; ((and (-v) one person who is not currently a peace  
24 officer and who represents a community college or four-year college  
25 or university)) (iii) one civilian member of the commission as  
26 appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one  
27 member of the public who is not a prosecutor, defense attorney,  
28 judge, or law enforcement officer; and (v) one person with expertise  
29 and background in police accountability who is not a current or  
30 former peace officer or corrections officer.

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

36 ~~((-3) Where the charge upon which revocation or denial is based~~  
37 ~~is that a peace officer or corrections officer was "discharged for~~  
38 ~~disqualifying misconduct," and the discharge is "final," within the~~  
39 ~~meaning of RCW 43.101.105(1) (d) or 43.101.106(4), and the officer~~  
40 ~~received a civil service hearing or arbitration hearing culminating~~

1 ~~in an affirming decision following separation from service by the~~  
2 ~~employer, the hearings panel may revoke or deny certification if the~~  
3 ~~hearings panel determines that the discharge occurred and was based~~  
4 ~~on disqualifying misconduct;))~~ (4) In decertification matters where  
5 there was a due process hearing or a disciplinary appeals hearing  
6 following an investigation by a law enforcement agency, or a criminal  
7 hearing regarding the alleged misconduct, the hearings panel need not  
8 redetermine the underlying facts but may make ~~((this))~~ its  
9 determination based solely on review of the records and decision  
10 relating to ~~((the employment separation))~~ those proceedings and any  
11 investigative or summary materials from the administrative law judge,  
12 legal counsel, and commission staff. However, the hearings panel may,  
13 in its discretion, consider additional evidence to determine whether  
14 ~~((such a discharge))~~ misconduct occurred ~~((and was based on such~~  
15 ~~disqualifying misconduct))~~. The hearings panel shall, upon written  
16 request by the subject peace officer or corrections officer, allow  
17 the peace officer or corrections officer to present additional  
18 evidence of extenuating circumstances.

19 ~~((Where the charge upon which revocation or denial of~~  
20 ~~certification is based is that a peace officer or corrections officer~~  
21 ~~"has been convicted at any time of a felony offense" within the~~  
22 ~~meaning of RCW 43.101.105(1)(c) or 43.101.106(3), the hearings panel~~  
23 ~~shall revoke or deny certification if it determines that the peace~~  
24 ~~officer or corrections officer was convicted of a felony. The~~  
25 ~~hearings panel need not redetermine the underlying facts but may make~~  
26 ~~this determination based solely on review of the records and decision~~  
27 ~~relating to the criminal proceeding. However, the hearings panel~~  
28 ~~shall, upon the panel's determination of relevancy, consider~~  
29 ~~additional evidence to determine whether the peace officer or~~  
30 ~~corrections officer was convicted of a felony.~~

31 ~~Where the charge upon which revocation or denial is based is~~  
32 ~~under RCW 43.101.105(1) (a), (b), (c), or (f) or 43.101.106 (1), (2),~~  
33 ~~(5), or (6), the hearings panel shall determine the underlying facts~~  
34 ~~relating to the charge upon which revocation or denial of~~  
35 ~~certification is based.~~

36 ~~(4))~~ (5) The commission is authorized to proceed regardless of  
37 whether an arbitrator or other appellate decision maker overturns the  
38 discipline imposed by the officer's employing agency or whether the  
39 agency settles an appeal. No action or failure to act by a law  
40 enforcement agency or corrections agency or decision resulting from



1 an appeal of that action precludes action by the commission to  
2 suspend or revoke an officer's certificate, to place on probation, or  
3 to require remedial training for the officer.

4 (6) The hearings, but not the deliberations of the hearings  
5 panel, are open to the public. The transcripts, admitted evidence,  
6 and written decisions of the hearings panel on behalf of the  
7 commission are not confidential or exempt from public disclosure, and  
8 are subject to subpoena and discovery proceedings in civil actions.

9 (7) Summary records of hearing dispositions must be made  
10 available on an annual basis on a public website.

11 (8) The commission's final administrative decision is subject to  
12 judicial review under RCW 34.05.510 through 34.05.598.

13 **Sec. 21.** RCW 43.101.400 and 2020 c 119 s 12 are each amended to  
14 read as follows:

15 (1) Except as provided under subsection (2) of this section,  
16 ~~((the following records of the commission are confidential and exempt~~  
17 ~~from public disclosure: (a) The contents of personnel action reports~~  
18 ~~filed under RCW 43.101.135 or 43.101.136; (b))~~) all files, papers,  
19 and other information obtained by the commission as part of an  
20 initial background investigation pursuant to RCW 43.101.095 ~~((5) or~~  
21 ~~43.101.096; and (c) all investigative files of the commission~~  
22 ~~compiled in carrying out the responsibilities of the commission under~~  
23 ~~this chapter))~~ (2) and (4) are confidential and exempt from public  
24 disclosure. Such records are not subject to public disclosure,  
25 subpoena, or discovery proceedings in any civil action, except as  
26 provided in ~~((subsection (5) of this section))~~ RCW 43.101.380(6) or  
27 which become part of the record in a suspension or decertification  
28 matter.

29 (2) Records which are otherwise confidential and exempt under  
30 subsection (1) of this section may be reviewed and copied: (a) By the  
31 officer involved or the officer's counsel or authorized  
32 representative, who may review the officer's file and may submit any  
33 additional exculpatory or explanatory evidence, statements, or other  
34 information, any of which must be included in the file; (b) by a duly  
35 authorized representative of (i) the agency of termination, or (ii) a  
36 current employing law enforcement or corrections agency, which may  
37 review and copy its employee-officer's file; or (c) by a  
38 representative of or investigator for the commission.

1 (3) Records which are otherwise confidential and exempt under  
2 subsection (1) of this section may also be inspected at the offices  
3 of the commission by a duly authorized representative of a law  
4 enforcement or corrections agency considering an application for  
5 employment by a person who is the subject of a record. A copy of  
6 records which are otherwise confidential and exempt under subsection  
7 (1) of this section may later be obtained by an agency after it hires  
8 the applicant. In all other cases under this subsection, the agency  
9 may not obtain a copy of the record.

10 ~~(4) ((Upon a determination that a complaint is without merit,~~  
11 ~~that a personnel action report filed under RCW 43.101.135 does not~~  
12 ~~merit action by the commission, or that a matter otherwise~~  
13 ~~investigated by the commission does not merit action, the commission~~  
14 ~~shall purge records addressed in subsection (1) of this section.~~

15 ~~(5) The hearings, but not the deliberations, of the hearings~~  
16 ~~board are open to the public. The transcripts, admitted evidence, and~~  
17 ~~written decisions of the hearings board on behalf of the commission~~  
18 ~~are not confidential or exempt from public disclosure, and are~~  
19 ~~subject to subpoena and discovery proceedings in civil actions.~~

20 (6)) The commission shall maintain a database that is publicly  
21 searchable, machine readable, and exportable, and accompanied by a  
22 complete, plain-language data dictionary describing the names of  
23 officers and employing agencies, all conduct investigated,  
24 certifications denied, notices and accompanying information provided  
25 by law enforcement or correctional agencies, including the reasons  
26 for separation from the agency, decertification or suspension actions  
27 pursued, and final disposition and the reasons therefor for at least  
28 30 years after final disposition of each incident. The dates for each  
29 material step of the process must be included. Any decertification  
30 must be reported to the national decertification index.

31 (5) Every individual, legal entity, and agency of federal, state,  
32 or local government is immune from civil liability, whether direct or  
33 derivative, for providing information to the commission in good  
34 faith.

35 NEW SECTION. Sec. 22. A new section is added to chapter 43.101  
36 RCW to read as follows:

37 The commission must develop policies, procedures, and rules to  
38 ensure that the goals of this act are fully implemented as intended  
39 and in a timely manner, and to provide appropriate clarity to

1 affected persons and entities as to how the commission will process  
2 complaints, investigations, and hearings, and impose sanctions,  
3 related to officer decertification. The commission must work in  
4 collaboration with interested parties and entities in developing the  
5 policies, procedures, and rules, and must take into account issues  
6 regarding when and how the commission may appropriately exercise  
7 authority in relation to simultaneous investigations and disciplinary  
8 processes, and how the commission may exercise available remedies in  
9 a manner that is appropriate to case circumstances and consistent  
10 with the goals of this act. The policies, procedures, and rules must  
11 be completed by June 30, 2022.

12 **Sec. 23.** RCW 41.56.905 and 1983 c 287 s 5 are each amended to  
13 read as follows:

14 The provisions of this chapter are intended to be additional to  
15 other remedies and shall be liberally construed to accomplish their  
16 purpose. Except as provided in RCW 53.18.015, 43.101.095, and  
17 43.101.135, if any provision of this chapter conflicts with any other  
18 statute, ordinance, rule or regulation of any public employer, the  
19 provisions of this chapter shall control.

20 **Sec. 24.** RCW 49.44.200 and 2013 c 330 s 1 are each amended to  
21 read as follows:

22 (1) An employer may not:

23 (a) Request, require, or otherwise coerce an employee or  
24 applicant to disclose login information for the employee's or  
25 applicant's personal social networking account;

26 (b) Request, require, or otherwise coerce an employee or  
27 applicant to access his or her personal social networking account in  
28 the employer's presence in a manner that enables the employer to  
29 observe the contents of the account;

30 (c) Compel or coerce an employee or applicant to add a person,  
31 including the employer, to the list of contacts associated with the  
32 employee's or applicant's personal social networking account;

33 (d) Request, require, or cause an employee or applicant to alter  
34 the settings on his or her personal social networking account that  
35 affect a third party's ability to view the contents of the account;  
36 or

37 (e) Take adverse action against an employee or applicant because  
38 the employee or applicant refuses to disclose his or her login

1 information, access his or her personal social networking account in  
2 the employer's presence, add a person to the list of contacts  
3 associated with his or her personal social networking account, or  
4 alter the settings on his or her personal social networking account  
5 that affect a third party's ability to view the contents of the  
6 account.

7 (2) This section does not apply to an employer's request or  
8 requirement that an employee share content from his or her personal  
9 social networking account if the following conditions are met:

10 (a) The employer requests or requires the content to make a  
11 factual determination in the course of conducting an investigation;

12 (b) The employer undertakes the investigation in response to  
13 receipt of information about the employee's activity on his or her  
14 personal social networking account;

15 (c) The purpose of the investigation is to: (i) Ensure compliance  
16 with applicable laws, regulatory requirements, or prohibitions  
17 against work-related employee misconduct; or (ii) investigate an  
18 allegation of unauthorized transfer of an employer's proprietary  
19 information, confidential information, or financial data to the  
20 employee's personal social networking account; and

21 (d) The employer does not request or require the employee to  
22 provide his or her login information.

23 (3) This section does not:

24 (a) Apply to a social network, intranet, or other technology  
25 platform that is intended primarily to facilitate work-related  
26 information exchange, collaboration, or communication by employees or  
27 other workers;

28 (b) Prohibit an employer from requesting or requiring an employee  
29 to disclose login information for access to: (i) An account or  
30 service provided by virtue of the employee's employment relationship  
31 with the employer; or (ii) an electronic communications device or  
32 online account paid for or supplied by the employer;

33 (c) Prohibit an employer from enforcing existing personnel  
34 policies that do not conflict with this section; (~~(e)~~)

35 (d) Prevent an employer from complying with the requirements of  
36 state or federal statutes, rules or regulations, case law, or rules  
37 of self-regulatory organizations; or

38 (e) Apply to a background investigation in accordance with RCW  
39 43.101.095. However, the officer must not be required to provide  
40 login information.

1 (4) If, through the use of an employer-provided electronic  
2 communications device or an electronic device or program that  
3 monitors an employer's network, an employer inadvertently receives an  
4 employee's login information, the employer is not liable for  
5 possessing the information but may not use the login information to  
6 access the employee's personal social networking account.

7 (5) For the purposes of this section and RCW 49.44.205:

8 (a) "Adverse action" means: Discharging, disciplining, or  
9 otherwise penalizing an employee; threatening to discharge,  
10 discipline, or otherwise penalize an employee; and failing or  
11 refusing to hire an applicant.

12 (b) "Applicant" means an applicant for employment.

13 (c) "Electronic communications device" means a device that uses  
14 electronic signals to create, transmit, and receive information,  
15 including computers, telephones, personal digital assistants, and  
16 other similar devices.

17 (d) "Employer" means any person, firm, corporation, partnership,  
18 business trust, legal representative, or other business entity which  
19 engages in any business, industry, profession, or other activity in  
20 this state and employs one or more employees, and includes the state,  
21 any state institution, state agency, political subdivisions of the  
22 state, and any municipal corporation or quasi-municipal corporation.  
23 "Employer" includes an agent, a representative, or a designee of the  
24 employer.

25 (e) "Login information" means a user name and password, a  
26 password, or other means of authentication that protects access to a  
27 personal social networking account.

28 **Sec. 25.** RCW 41.06.040 and 1969 ex.s. c 36 s 22 are each amended  
29 to read as follows:

30 The provisions of this chapter apply to:

31 (1) Each board, commission or other multimember body, including,  
32 but not limited to, those consisting in whole or in part of elective  
33 officers;

34 (2) Each agency, and each employee and position therein, not  
35 expressly excluded or exempted under the provisions of RCW 41.06.070  
36 or otherwise excluded or exempted in this chapter.

37 NEW SECTION. **Sec. 26.** A new section is added to chapter 41.06  
38 RCW to read as follows:

1 In addition to the exemptions set forth in RCW 41.06.070, the  
2 provisions of this chapter do not apply in the Washington state  
3 criminal justice training commission to two confidential secretaries  
4 involved in managing the confidential records under RCW 43.101.135  
5 and 43.101.400.

6 NEW SECTION. **Sec. 27.** No later than December 1, 2022, the  
7 criminal justice training commission shall submit a written report to  
8 the governor and the appropriate committees of the legislature  
9 detailing progress of implementation of this act.

10 NEW SECTION. **Sec. 28.** The following acts or parts of acts are  
11 each repealed:

12 (1) RCW 43.101.096 (Corrections officer certification) and 2020 c  
13 119 s 3;

14 (2) RCW 43.101.106 (Denial or revocation of corrections officer  
15 certification) and 2020 c 119 s 4;

16 (3) RCW 43.101.116 (Denial or revocation of corrections officer  
17 certification—Readmission to academy—Reinstatement) and 2020 c 119 s  
18 5;

19 (4) RCW 43.101.136 (Termination of corrections officer—  
20 Notification to commission) and 2020 c 119 s 7;

21 (5) RCW 43.101.146 (Written complaint by corrections officer or  
22 corrections agency to deny or revoke corrections officer  
23 certification—Immunity of complainant) and 2020 c 119 s 8;

24 (6) RCW 43.101.156 (Denial or revocation of corrections officer  
25 certification—Statement of charges—Notice—Hearing) and 2020 c 119 s  
26 9; and

27 (7) RCW 43.101.180 (Priorities) and 1981 c 136 s 27 & 1974 ex.s.  
28 c 94 s 18.

29 NEW SECTION. **Sec. 29.** A new section is added to chapter 10.93  
30 RCW to read as follows:

31 A general authority Washington law enforcement agency or limited  
32 authority Washington law enforcement agency is prohibited from  
33 considering the application for any office, place, position, or  
34 employment within the agency if the applicant has not provided the  
35 agency a document, voluntarily and knowingly signed by the applicant,  
36 that authorizes each prior employer to release any and all

1 information relating to the applicant's employment, and further  
2 releasing and holding harmless the agency and each prior employer  
3 from any and all liability that may potentially result from the  
4 release and use of such information provided.

5 **Sec. 30.** RCW 43.101.200 and 2019 c 415 s 969 are each amended to  
6 read as follows:

7 (1) All law enforcement personnel, except volunteers, and reserve  
8 officers whether paid or unpaid, initially employed on or after  
9 January 1, 1978, shall engage in basic law enforcement training which  
10 complies with standards adopted by the commission pursuant to RCW  
11 43.101.080. For personnel initially employed before January 1, 1990,  
12 such training shall be successfully completed during the first  
13 fifteen months of employment of such personnel unless otherwise  
14 extended or waived by the commission and shall be requisite to the  
15 continuation of such employment. Personnel initially employed on or  
16 after January 1, 1990, shall commence basic training during the first  
17 six months of employment unless the basic training requirement is  
18 otherwise waived or extended by the commission. Successful completion  
19 of basic training is requisite to the continuation of employment of  
20 such personnel initially employed on or after January 1, 1990.

21 (2) Except as (~~otherwise~~) provided in (~~this chapter~~) RCW  
22 43.101.170, the commission shall provide the aforementioned training  
23 (~~together with~~) and shall have the sole authority to do so. The  
24 commission shall provide necessary facilities, supplies, materials,  
25 and the board and room of noncommuting attendees for seven days per  
26 week, except during the 2017-2019 and 2019-2021 fiscal biennia when  
27 the employing, county, city, or state law enforcement agency shall  
28 reimburse the commission for twenty-five percent of the cost of  
29 training its personnel. Additionally, to the extent funds are  
30 provided for this purpose, the commission shall reimburse to  
31 participating law enforcement agencies with ten or less full-time  
32 commissioned patrol officers the cost of temporary replacement of  
33 each officer who is enrolled in basic law enforcement training:  
34 PROVIDED, That such reimbursement shall include only the actual cost  
35 of temporary replacement not to exceed the total amount of salary and  
36 benefits received by the replaced officer during his or her training  
37 period."

38 Correct the title.

EFFECT: (1) Modifies the definition of "applicant" to remove the specification that the person is pending certification as a peace or corrections officer.

(2) Makes the following changes to the composition of the Criminal Justice Training Commission (CJTC): Increases membership to 21 (from 17); requires appointment of an alternate for the chief of police position; increases the number of line officers from one to two, requires that the officers be from different agencies that have at least 15 officers each and are different than the agencies the sheriff and police chiefs are associated with, and requires the officers to be affiliated with different labor organizations; adds a tribal police officer; changes "private person" membership to "community member" membership, and increases the number from five to seven, including two (rather than one) from the east side of the Cascade Mountains and three (rather than two) from historically underrepresented communities; adds a licensed attorney with relevant background in matters related to enhancing law enforcement practices and accountability; and removes the member representing the Federal Bureau of Investigation.

(3) Provides that the CJTC has sole authority to provide basic law enforcement training, and requires, rather than authorizes, the CJTC to train tribal police officers when the tribal government has requested and paid for training through the CJTC.

(4) Modifies officer background investigation requirements: Makes an exception to the requirement that an applicant submit to a background investigation following a 24-month lapse in service if the lapse is due to being recalled to military service; modifies requirements relating to checking impeachment disclosure lists and affiliation with extremist organizations to apply to applicants for peace officer, reserve officer, and corrections officer positions, rather than just peace officer positions, and to specify that extremist organizations include those defined as such by the CJTC; requires a review of the applicant's social media accounts; and provides that the CJTC may establish standards for background check requirements.

(5) Provides that, in considering whether to investigate following a pattern of complaints or actions, the CJTC must consider the agency's policies and procedures (in addition to the officer's job duties and assignment) in determining what constitutes a pattern.

(6) Modifies certain decertification grounds: Expands the list of triggering events for certain decertification grounds to include separation from the employing agency following the relevant conduct (in addition to termination or a court finding); amends the grounds relating to failure to report another officer's use of excessive force to specify that the officer must have failed to report in accordance with agency policy or law (rather than policy or procedure); amends the grounds relating to a pattern of conduct to require conduct that fails to meet ethical or professional standards (rather than conduct that "indicates an inability" to meet such standards), and disrupts, diminishes, or jeopardizes public trust or confidence in the profession (rather than conduct that "tends to" do these things); expands the exception to the grounds related to knowingly making misleading, deceptive, untrue, or fraudulent representations to include instances in which such conduct is for a lawful law enforcement purpose (in addition to an undercover investigation); and adds affiliation with one or more extremist organizations to the list of nonmandatory decertification grounds.



(7) Modifies the provisions describing the factors the CJTC must take into consideration in determining appropriate sanctions in a decertification matter, and includes a requirement to consider sanctions or training ordered by the law enforcement agency regarding the alleged misconduct.

(8) Specifies that the provision stating that reserve officers are subject to decertification on the same grounds as peace officers applies only when the reserve officer holds peace officer certification.

(9) Requires written notice (as well as electronic notice) to an officer of a decertification hearing.

(10) Removes reprimand from the CJTC's available sanctions.

(11) Narrows the provisions relating to suspension of certification: Removes the authority of the CJTC to suspend certification pending a decertification hearing; removes the CJTC's authority to immediately suspend certification pending employing agency proceedings following a required notice by the employing agency to the CJTC; and requires any suspension or probation imposed by the CJTC to run concurrently to any leave or discipline imposed by the employing agency for the same incident.

(12) Provides that a law enforcement agency may not terminate an officer based solely on the officer being suspended or placed on probation by the CJTC.

(13) Requires employing agencies to complete (rather than only conduct) an investigation when there is indication that an officer was laid off pending a disciplinary investigation or resigned or retired in anticipation of discipline that would likely lead to suspension or discharge.

(14) Requires the CJTC, in collaboration with interested parties, to develop a set of policies, procedures, and rules by June 30, 2022, to ensure that the goals of the act are fully implemented, and to provide clarity as to how the CJTC will process complaints, investigations, and hearings, and impose sanctions.

(15) Makes other minor changes to wording for internal consistency and clarity.

(16) Retains all other provisions of the underlying bill.

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