

E2SSB 5051 - H COMM AMD
By Committee on Public Safety

NOT ADOPTED 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.

31 (5) (~~The term "correctional"~~) "Correctional personnel" means any
32 employee or volunteer who by state, county, municipal, or combination

1 thereof, statute has the responsibility for the confinement, care,
2 management, training, treatment, education, supervision, or
3 counseling of those individuals whose civil rights have been limited
4 in some way by legal sanction.

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

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

27 (8) ~~((a) "Discharged for disqualifying misconduct" has the~~
28 ~~following meanings:~~

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

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

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

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

27 ~~(10)) "Peace officer" ((means any law enforcement personnel~~
28 ~~subject to the basic law enforcement training requirement of RCW~~
29 ~~43.101.200 and any other requirements of that section,~~
30 ~~notwithstanding any waiver or exemption granted by the commission,~~
31 ~~and notwithstanding the statutory exemption based on date of initial~~
32 ~~hire under RCW 43.101.200)) has the same meaning as a general
33 authority Washington peace officer as defined in RCW 10.93.020.
34 ~~Commissioned officers of the Washington state patrol, whether they~~
35 ~~have been or may be exempted by rule of the commission from the basic~~
36 ~~training requirement of RCW 43.101.200, are included as peace~~
37 ~~officers for purposes of this chapter. Fish and wildlife officers~~
38 ~~with enforcement powers for all criminal laws under RCW 77.15.075 are~~
39 ~~peace officers for purposes of this chapter.~~~~

1 (~~(11)~~) (9) "Corrections officer" means any corrections agency
2 employee whose primary job function is to provide for the custody,
3 safety, and security of adult (~~(prisoners)~~) persons in jails and
4 detention facilities (~~(and who is subject to the basic corrections~~
5 ~~training requirement of RCW 43.101.220 and any other requirements of~~
6 ~~that section, notwithstanding any waiver or exemption granted by the~~
7 ~~commission, and notwithstanding the statutory exemption based on date~~
8 ~~of initial hire under RCW 43.101.220. For the purpose of RCW~~
9 ~~43.101.080, 43.101.096, 43.101.106, 43.101.116, 43.101.121,~~
10 ~~43.101.126, 43.101.136, 43.101.146, 43.101.156, 43.101.380, and~~
11 ~~43.101.400, "corrections)~~) in the state. "Corrections officer" does
12 not include individuals employed by state agencies.

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

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

22 (a) Specially commissioned Washington peace officers as defined
23 in RCW 10.93.020;

24 (b) Limited authority Washington peace officers as defined in RCW
25 10.93.020;

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

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

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

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

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

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

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

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

18 (1) The governor shall appoint ~~((two))~~ ;

19 (a) One incumbent sheriff ~~((s))~~ and two incumbent chiefs of
20 police ~~((-~~

21 ~~-2) The governor shall appoint one officer))~~ ;

22 (b) Two officers at or below the level of first line supervisor
23 that have at least ten years' experience as law enforcement officers.

24 The officers must be from ((a county)) law enforcement ((agency and
25 one officer at or below the level of first line supervisor from a
26 municipal law enforcement agency. Each appointee under this
27 subsection (2) shall have at least ten years experience as a law
28 enforcement officer.

29 ~~((3) The governor shall appoint one))~~ agencies that have at least
30 15 officers and are different than the agencies that the members in
31 (a) of this subsection are affiliated with;

32 (c) One person employed ~~((in a county correctional system and one~~
33 ~~person employed in the state correctional system.~~

34 ~~((4) The governor shall appoint one))~~ in a state or county
35 corrections agency;

36 (d) One incumbent county prosecuting attorney or municipal
37 attorney ~~((-~~

38 ~~-5) The governor shall appoint one))~~ and one public defender;

39 (e) One elected official of a local government ~~((-~~

1 ~~(6) The governor shall appoint two private citizens)) who is not~~
2 ~~a sheriff or police chief and has not been employed in the last 10~~
3 ~~years as a peace officer or prosecutor in any jurisdiction;~~

4 (f) One person with civilian oversight or auditing experience
5 over law enforcement agencies;

6 (g) Seven community members who are not employed in law
7 enforcement, ((one from)) including at least two who reside east of
8 the crest of the Cascade mountains and ((one from west of the crest
9 of the Cascade mountains. At)) at least ((one of the private citizens
10 must be)) three who are from a historically underrepresented
11 community or communities((-

12 ~~(7) The governor shall appoint one)); and~~

13 (h) One tribal chair, board member, councilmember, or
14 ((designee)) enrolled member from a federally recognized tribe with
15 an active certification agreement under RCW 43.101.157((-

16 ~~(8) The three remaining members shall be:~~

17 ~~(a-)) who is not a sheriff and has not been employed in the last~~
18 ~~10 years as a peace officer or prosecutor in any jurisdiction;~~

19 (2) The attorney general or the attorney general's designee;

20 ~~((b) The special agent in charge of the Seattle office of the~~
21 ~~federal bureau of investigation; and~~

22 ~~(e-)) (3) The chief of the state patrol or the chief's designee.~~

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

25 All members appointed to the commission by the governor shall be
26 appointed for terms of six years, such terms to commence on July
27 first, and expire on June thirtieth((: PROVIDED, That of the)).
28 However, for members first appointed ((three shall be appointed for
29 two year terms, three shall be appointed for four year terms, and
30 three shall be appointed for six year terms: PROVIDED, FURTHER, That
31 the terms of the two members appointed as incumbent police chiefs
32 shall not expire in the same year nor shall the terms of the two
33 members appointed as representing correctional systems expire in the
34 same year nor shall the terms of the two members appointed as
35 incumbent sheriffs expire in the same year)) as a result of
36 chapter . . ., Laws of 2021 (this act), the governor shall appoint
37 members to terms ranging from two years to six years in order to
38 stagger future appointments. Any member chosen to fill a vacancy
39 created otherwise than by expiration of term shall be appointed for

1 the unexpired term of the member (~~he or she~~) the appointee is to
2 succeed. Any member may be reappointed for additional terms.

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

5 The commission shall elect a chair and a vice chair from among
6 its members. (~~Seven~~) Nine members of the commission shall
7 constitute a quorum. (~~The governor shall summon the commission to~~
8 ~~its first meeting.~~

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

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

14 The commission shall have all of the following powers:

15 (1) (~~To meet at such times and places as it may deem proper;~~
16 ~~(2) To adopt any rules and regulations as it may deem necessary;~~
17 ~~(3) To contract for services as it deems necessary in order to~~
18 ~~carry out its duties and responsibilities;~~

19 ~~(4) To cooperate with and secure the cooperation of any~~
20 ~~department, agency, or instrumentality in state, county, and city~~
21 ~~government, and other commissions affected by or concerned with the~~
22 ~~business of the commission;~~

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

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

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

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

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

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

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

10 ~~((9) To own)~~ (6) Own, establish, and operate, or ((to))
11 contract with other qualified institutions or organizations for the
12 operation of, training and education programs for criminal justice
13 personnel ((and to purchase, lease, or otherwise acquire, subject to
14 the approval of the department of enterprise services, a training
15 facility or facilities necessary to the conducting of such programs;

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

19 ~~(11) To review);~~

20 (7) Review and approve or reject standards for instructors of
21 training programs for criminal justice personnel, and ((to)) employ
22 personnel from law enforcement agencies on a temporary basis as
23 instructors without any loss of employee benefits to those
24 instructors from those agencies;

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

27 ~~((13) To review)~~ (9) Review and approve or reject training
28 programs conducted for criminal justice personnel and rules
29 establishing and prescribing minimum training and education standards
30 ~~((recommended by the training standards and education boards)),~~
31 including continuing education;

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

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

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

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

5 (~~(18) To establish~~) (14) Establish rules and regulations
6 (~~recommended by the training standards and education boards~~)
7 prescribing minimum standards relating to physical, mental, and moral
8 fitness which shall govern the recruitment of criminal justice
9 personnel where such standards are not prescribed by statute or
10 constitutional provision;

11 (~~(19) To require~~) (15) Require county, city, port, or state law
12 enforcement and corrections agencies that make a conditional offer of
13 employment to an applicant as a fully commissioned peace officer, a
14 reserve officer, or a corrections officer to administer a background
15 investigation (~~including a check of criminal history, verification~~
16 ~~of immigrant or citizenship status as either a citizen of the United~~
17 ~~States of America or a lawful permanent resident, a psychological~~
18 ~~examination, and a polygraph test or similar assessment to each~~
19 ~~applicant, the results of which shall be used by the employer to~~
20 ~~determine the applicant's suitability for employment as a fully~~
21 ~~commissioned peace officer, a reserve officer, or a corrections~~
22 ~~officer. The background investigation, psychological examination, and~~
23 ~~the polygraph examination shall be administered in accordance with~~
24 ~~the requirements of RCW 43.101.095(2) for peace officers, and RCW~~
25 ~~43.101.096 for corrections officers. The employing county, city, or~~
26 ~~state law enforcement agency may require that each peace officer,~~
27 ~~reserve officer, or corrections officer who is required to take a~~
28 ~~psychological examination and a polygraph or similar test pay a~~
29 ~~portion of the testing fee based on the actual cost of the test or~~
30 ~~four hundred dollars, whichever is less. County, city, and state law~~
31 ~~enforcement agencies may establish a payment plan if they determine~~
32 ~~that the peace officer, reserve officer, or corrections officer does~~
33 ~~not readily have the means to pay for his or her portion of the~~
34 ~~testing fee. This subsection does not apply to corrections officers~~
35 ~~employed by state agencies;~~

36 ~~(20) To promote~~) in accordance with the requirements of RCW
37 43.101.095 to determine the applicant's suitability for employment as
38 a fully commissioned peace officer, reserve officer, or corrections
39 officer;

1 (16) Appoint members of a hearings board as provided under RCW
2 43.101.380;

3 (17) Issue public recommendations to the governing body of a law
4 enforcement agency regarding the agency's command decisions,
5 inadequacy of policy or training, investigations or disciplinary
6 decisions regarding misconduct, potential systemic violations of law
7 or policy, unconstitutional policing, or other matters;

8 (18) Promote positive relationships between law enforcement and
9 the ((citizens)) residents of the state of Washington ((by allowing))
10 through commissioners and staff ((to participate)) participation in
11 the "chief for a day program." The executive director shall designate
12 staff who may participate. In furtherance of this purpose, the
13 commission may accept grants of funds and gifts and may use its
14 public facilities for such purpose. At all times, the participation
15 of commissioners and staff shall comply with chapter 42.52 RCW and
16 chapter 292-110 WAC((-

17 All));

18 (19) Adopt, amend, repeal, and administer rules and regulations
19 ((adopted by the commission shall be adopted and administered))
20 pursuant to the administrative procedure act, chapter 34.05 RCW, and
21 the open public meetings act, chapter 42.30 RCW.

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

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

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

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

30 (2) Cooperate with and secure the cooperation of any department,
31 agency, or instrumentality in state, county, and city government, and
32 other commissions affected by or concerned with the business of the
33 commission;

34 (3) Select and employ an executive director, and empower the
35 director to perform such duties and responsibilities as the
36 commission may deem necessary;

37 (4) Issue subpoenas and statements of charges, and administer
38 oaths in connection with investigations, hearings, or other

1 proceedings held under this chapter, or designate individuals to do
2 so;

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

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

8 ~~((4) Appoint members of a hearings board as provided under RCW~~
9 ~~43.101.380;~~

10 ~~(5))~~ (7) Enter into contracts for professional services
11 determined by the commission to be necessary for adequate enforcement
12 of this chapter;

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

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

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

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

22 (8) Exercise lawful actions necessary to enable the commission to
23 fully and adequately perform its duties and to exercise the lawful
24 powers granted to the commission.

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

27 (1) As a condition of ~~((continuing))~~ employment ~~((as peace~~
28 ~~officers)), all Washington peace officers~~~~((:-(a) Shall timely obtain~~
29 ~~certification as peace officers, or timely obtain certification or~~
30 ~~exemption therefrom, by meeting all requirements of RCW 43.101.200,~~
31 ~~as that section is administered under the rules of the commission, as~~
32 ~~well by meeting any additional requirements under this chapter; and~~
33 ~~(b) shall maintain the basic certification as peace officers under~~
34 ~~this chapter)) and corrections officers are required to obtain~~
35 certification as a peace officer or corrections officer or exemption
36 therefrom and maintain certification as required by this chapter and
37 the rules of the commission.

38 (2) (a) ~~((As a condition of continuing employment for any))~~ Any
39 applicant who has been offered a conditional offer of employment as a

1 (~~fully commissioned~~) peace officer or (~~a~~) reserve officer (~~after~~
2 ~~July 24, 2005~~) or offered a conditional offer of employment as a
3 corrections officer after July 1, 2021, including any person whose
4 certification has lapsed as a result of a break of more than
5 (~~twenty-four~~) 24 consecutive months in the officer's service (~~as a~~
6 fully commissioned peace officer or reserve officer, the applicant
7 shall) for a reason other than being recalled to military service,
8 must submit to a background investigation (~~including a~~) to
9 determine the applicant's suitability for employment. Employing
10 agencies may only make a conditional offer of employment pending
11 completion of the background check and shall verify in writing to the
12 commission that they have complied with all background check
13 requirements prior to making any nonconditional offer of employment.

14 (b) The background check must include:

15 (i) A check of criminal history, (~~verification~~) any national
16 decertification index, commission records, and all disciplinary
17 records by any previous law enforcement or correctional employer,
18 including complaints or investigations of misconduct and the reason
19 for separation from employment. Law enforcement or correctional
20 agencies that previously employed the applicant shall disclose
21 employment information within 30 days of receiving a written request
22 from the employing agency conducting the background investigation,
23 including the reason for the officer's separation from the agency.
24 Complaints or investigations of misconduct must be disclosed
25 regardless of the result of the investigation or whether the
26 complaint was unfounded;

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

30 (iii) Inquiry into whether the applicant has any past or present
31 affiliations with extremist organizations, as defined by the
32 commission;

33 (iv) Verification of immigrant or citizenship status as either a
34 citizen of the United States of America or a lawful permanent
35 resident(~~r~~-a);

36 (v) A psychological examination(~~r~~ and a) administered by a
37 psychiatrist licensed in the state of Washington pursuant to chapter
38 18.71 RCW or a psychologist licensed in the state of Washington
39 pursuant to chapter 18.83 RCW, in compliance with standards
40 established in rules of the commission;

1 (vi) A polygraph or similar assessment ((as)) administered by
2 ((the county, city, or state law enforcement agency, the results of
3 which shall be used to determine the applicant's suitability for
4 employment as a fully commissioned peace officer or a reserve
5 officer.

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

10 (ii) ~~The psychological examination shall be administered by a
11 psychiatrist licensed in the state of Washington pursuant to chapter
12 18.71 RCW or a psychologist licensed in the state of Washington
13 pursuant to chapter 18.83 RCW, in compliance with standards
14 established in rules of the commission.~~

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

19 (iv)) an experienced professional with appropriate training and
20 in compliance with standards established in rules of the commission;
21 and

22 (vii) Any other test or assessment ((to be administered as part
23 of the background investigation shall be administered in compliance
24 with standards established in rules of)) that may be required in rule
25 by the commission.

26 ((b)) (c) The employing ((county, city, or state)) law
27 enforcement agency may require that each ((peace officer or reserve
28 officer)) person who is required to take a psychological examination
29 and a polygraph or similar test pay a portion of the testing fee
30 based on the actual cost of the test or ((four hundred dollars))
31 \$400, whichever is less. ((County, city, and state law enforcement))
32 Employing agencies may establish a payment plan if they determine
33 that the ((peace officer or reserve officer)) person does not readily
34 have the means to pay ((for his or her portion of)) the testing fee.

35 (3) ((The commission shall certify peace officers who have
36 satisfied, or have been exempted by statute or by rule from, the
37 basic training requirements of RCW 43.101.200 on or before January 1,
38 2002. Thereafter, the commission may revoke certification pursuant to
39 this chapter.

1 ~~(4))~~ The commission shall allow a peace officer or corrections
2 officer to retain status as a certified peace officer or corrections
3 officer as long as the officer: (a) Timely meets the basic (~~law~~
4 ~~enforcement~~) training requirements, or is exempted therefrom, in
5 whole or in part, under RCW 43.101.200 or under rule of the
6 commission; (b) timely meets or is exempted from any other
7 requirements under this chapter as administered under the rules
8 adopted by the commission; (c) is not denied certification by the
9 commission under this chapter; and (d) has not had certification
10 suspended or revoked by the commission.

11 ~~((5))~~ (4) As a (~~prerequisite to~~) condition of certification,
12 (~~as well as a prerequisite to pursuit of a hearing under RCW~~
13 ~~43.101.155,~~) a peace officer or corrections officer must, on a form
14 devised or adopted by the commission, authorize the release to the
15 employing agency and commission of (~~his or her~~) the officer's
16 personnel files, including disciplinary, termination (~~papers~~),
17 civil or criminal investigation (~~files~~), or other (~~files,~~
18 ~~papers,~~) records or information that are directly related to a
19 certification matter or decertification matter before the commission.
20 The peace officer or corrections officer must also consent to and
21 facilitate a review of the officer's social media accounts, however,
22 consistent with RCW 49.44.200, the officer is not required to provide
23 login information. The release of information may not be delayed,
24 limited, or precluded by any agreement or contract between the
25 officer, or the officer's union, and the entity responsible for the
26 records or information.

27 ~~((6))~~ (5) The employing agency and commission (~~is~~) are
28 authorized to receive criminal history record information that
29 includes nonconviction data for any purpose associated with
30 employment (~~by the commission~~) or (~~peace officer~~) certification
31 under this chapter. Dissemination or use of nonconviction data for
32 purposes other than that authorized in this section is prohibited.

33 ~~((7))~~ (6) For a national criminal history records check, the
34 commission shall require fingerprints be submitted and searched
35 through the Washington state patrol identification and criminal
36 history section. The Washington state patrol shall forward the
37 fingerprints to the federal bureau of investigation.

38 (7) Prior to certification, the employing agency shall certify to
39 the commission that the agency has completed the background check, no
40 information has been found that would disqualify the applicant from

1 certification, and the applicant is suitable for employment as a
2 peace officer or corrections officer.

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

5 (1) ~~((Upon))~~ To help prevent misconduct, enhance peace officer
6 and corrections officer accountability through the imposition of
7 sanctions commensurate to the wrongdoing when misconduct occurs, and
8 enhance public trust and confidence in the criminal justice system,
9 upon request by ((a—peace)) an officer's employer or on its own
10 initiative, the commission may deny, suspend, or revoke certification
11 of ((any peace)), or require remedial training for, an officer((,
12 after)) as provided in this section. The commission shall provide the
13 officer with written notice and a hearing, if a hearing is timely
14 requested by the ((peace)) officer under RCW 43.101.155 ~~((,~~ based upon
15 a finding of one or more of the following conditions:

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

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

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

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

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

38 ~~(f) The peace officer has interfered with an investigation or~~
39 ~~action for denial or revocation of certificate by: (i) Knowingly~~

1 ~~making a materially false statement to the commission; or (ii) in any~~
2 ~~matter under investigation by or otherwise before the commission,~~
3 ~~tampering with evidence or tampering with or intimidating any~~
4 ~~witness)). Notice and hearing are not required when a peace officer~~
5 ~~voluntarily surrenders certification.~~

6 (2) ~~((After July 24, 2005, the))~~ The commission must deny or
7 revoke the certification of an applicant or officer if the applicant
8 or officer:

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

10 (A) A felony offense;

11 (B) A gross misdemeanor domestic violence offense;

12 (C) An offense with sexual motivation as defined in RCW
13 9.94A.030;

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

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

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

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

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

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

25 (b) Has been terminated by the employing agency or found by a
26 court to have engaged in the use of force which resulted in death or
27 serious injury and the use of force violated the law;

28 (c) Has been terminated by the employing agency or found by a
29 court to have witnessed another officer's use of excessive force and:

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

32 (ii) Failed to report the use of excessive force in accordance
33 with agency policy or state law;

34 (d) Has been terminated by the employing agency or found by a
35 court to have knowingly made misleading, deceptive, untrue, or
36 fraudulent representations in the practice of being a peace officer
37 or corrections officer including, but not limited to, committing
38 perjury, filing false reports, hiding evidence, or failing to report
39 exonerating information. This subsection (2) (d) does not apply to

1 representations made in the course and for the purposes of an
2 undercover investigation; or

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

5 (3) The commission may deny, suspend, or revoke certification or
6 require remedial training of an applicant or officer if the applicant
7 or officer:

8 (a) Failed to timely meet all requirements for obtaining a
9 certificate of basic law enforcement or corrections training, a
10 certificate of basic law enforcement or corrections training
11 equivalency, or a certificate of exemption from the training;

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

14 (c) Knowingly falsified or omitted material information on an
15 application to the employer or for training or certification to the
16 commission;

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

19 (i) Knowingly making a materially false statement to the
20 commission;

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

23 (iii) In any matter under investigation by or otherwise before
24 the commission, tampering with evidence or tampering with or
25 intimidating any witness;

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

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

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

32 (h) Engaged in conduct including, but not limited to, verbal
33 statements, writings, online posts, recordings, and gestures,
34 involving prejudice or discrimination against a person on the basis
35 of race, religion, creed, color, national origin, immigration status,
36 disability, genetic information, marital status, sex, gender, gender
37 identity, gender expression, age, sexual orientation, or military and
38 veteran status;

39 (i) Whether occurring on or off duty, has:

1 (i) Been found to have committed a felony, without regard to
2 conviction;

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

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

10 (iv) Engaged in any conduct or pattern of conduct that: Fails to
11 meet the ethical and professional standards required of a peace
12 officer or corrections officer; disrupts, diminishes, or otherwise
13 jeopardizes public trust or confidence in the law enforcement
14 profession and correctional system; or demonstrates an inability or
15 unwillingness to uphold the officer's sworn oath to enforce the
16 constitution and laws of the United States and the state of
17 Washington;

18 (j) Has been suspended or discharged, or has resigned or retired
19 in lieu of discharge, for any conduct listed in this section; or

20 (k) Has voluntarily surrendered the person's certification as a
21 peace officer or corrections officer.

22 (4) In addition to the penalties set forth in subsection (3) of
23 this section, the commission may require mandatory retraining or
24 placement on probation for up to two years, or both. In determining
25 the appropriate penalty or sanction, the commission shall consider
26 the findings and conclusions of any due process hearing or
27 disciplinary appeals hearing following an investigation by a law
28 enforcement agency regarding the alleged misconduct and whether the
29 employing agency bears any responsibility for the situation.

30 (5) The commission shall deny certification to any applicant who
31 ((has)) lost ((his or her)) certification as a result of a break in
32 service of more than ((~~twenty-four~~)) 24 consecutive months if that
33 applicant failed to comply with the requirements set forth in RCW
34 43.101.080((~~-19~~)) (15) and 43.101.095(2).

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

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

1 (8) A law enforcement agency may not terminate a peace officer
2 based solely on any commission action, including any imposition of
3 suspension or probation by the commission. This subsection does not
4 prohibit a law enforcement agency from terminating a peace officer
5 based on the underlying acts or omissions for which the commission
6 took action if the actions taken by the law enforcement agency
7 otherwise conform to the rules and procedures adopted by the law
8 enforcement agency as determined through collective bargaining.

9 (9) Any of the misconduct listed in subsections (2) and (3) of
10 this section is grounds for denial, suspension, or revocation of
11 certification of a reserve officer to the same extent as applied to a
12 peace officer, if the reserve officer is certified pursuant to RCW
13 43.101.095.

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

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

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

23 (2) A person whose certification is denied or revoked based upon
24 prior administrative error of issuance, failure to cooperate, or
25 interference with an investigation is eligible for certification upon
26 meeting standards established in rules of the commission, (~~rules~~
27 ~~which may~~) which rules shall provide for a probationary period of
28 certification in the event of reinstatement of eligibility.

29 (3) A person whose certification is mandatorily denied or revoked
30 (~~based upon a felony criminal conviction~~) pursuant to RCW
31 43.101.105(2) is not eligible for certification at any time.

32 (4) A (~~peace officer~~) person whose certification is denied or
33 revoked (~~based upon discharge for disqualifying misconduct, but not~~
34 ~~also based upon a felony criminal conviction,~~) for reasons other
35 than provided in subsections (1) through (3) of this section may,
36 five years after the revocation or denial, petition the commission
37 for reinstatement of the certificate or for eligibility for
38 reinstatement. The commission (~~shall~~) may hold a hearing on the
39 petition to consider reinstatement, and the commission may allow

1 reinstatement based upon standards established in rules of the
2 commission. If the certificate is reinstated or eligibility for
3 certification is determined, the commission (~~(may)~~) shall establish a
4 probationary period of certification.

5 (5) A (~~(peace officer)~~) person whose certification is revoked
6 based solely upon a criminal conviction may petition the commission
7 for reinstatement immediately upon a final judicial reversal of the
8 conviction. The commission shall hold a hearing on request to
9 consider reinstatement, and the commission may allow reinstatement
10 based on standards established in rules of the commission. If the
11 certificate is reinstated or if eligibility for certification is
12 determined, the commission (~~(may)~~) shall establish a probationary
13 period of certification.

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

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

19 (1)(a) Upon (~~(termination)~~) separation of a peace officer or
20 corrections officer from an employing agency for any reason,
21 including termination, resignation, or retirement, the agency (~~(of~~
22 termination)) shall(~~(, within fifteen days of the termination,)~~
23 notify the commission within 15 days of the separation date on a
24 personnel action report form provided by the commission. (~~(The agency~~
25 of termination shall, upon))

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

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

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

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

5 (3) To better enable the commission to act swiftly and
6 comprehensively when misconduct has occurred that may undermine
7 public trust and confidence in law enforcement or the correctional
8 system, if the totality of the circumstances support a conclusion
9 that the officer resigned or retired in anticipation of discipline,
10 whether or not the misconduct was discovered at the time, and when
11 such discipline, if carried forward, would more likely than not have
12 led to discharge, or if the officer was laid off when disciplinary
13 investigation or action was imminent or pending which could have
14 resulted in the officer's suspension or discharge, the employing
15 agency shall conduct and complete the investigation and provide all
16 relevant information to the commission as if the officer were still
17 employed by the agency.

18 (4) Upon request of the commission, the employing agency shall
19 provide such additional documentation or information as the
20 commission deems necessary to determine whether the ((~~termination~~))
21 separation or event provides grounds for suspension or revocation
22 ((~~under RCW 43.101.105~~)).

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

24 (a) Initiate decertification proceedings upon conclusion of any
25 investigation or disciplinary proceedings initiated by the employing
26 agency;

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

29 (c) Wait to proceed until any investigation, disciplinary
30 proceedings, or appeals through the employing agency are final before
31 taking action. Where a decertification decision requires a finding
32 that the officer's conduct violated policy and the employing agency
33 has begun its investigation into the underlying event, the commission
34 shall await notification of a finding by the employing agency before
35 beginning the decertification process.

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

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

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

6 (b) That allows the agency to destroy or remove any personnel
7 record while the officer is employed and for 10 years thereafter.
8 Such records must include all misconduct and equal employment
9 opportunity complaints, progressive discipline imposed including
10 written reprimands, supervisor coaching, suspensions, involuntary
11 transfers, investigatory files, and other disciplinary appeals and
12 litigation records.

13 (8) The commission shall maintain ((these—notices)) all
14 information provided pursuant to this section in a permanent file((7
15 subject to RCW 43.101.400)).

16 (9) In addition to disciplinary action authorized in RCW
17 43.101.105, the commission may impose a civil penalty not to exceed
18 \$10,000 for the failure by an officer or an employing agency to
19 timely and accurately report information pursuant to this section.

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

22 ~~((A law enforcement officer or duly authorized representative of~~
23 ~~a law enforcement agency)) (1) Any individual may submit a written
24 complaint to the commission ~~((charging))~~ stating that ~~((a peace))~~ an
25 officer's certificate should be denied, suspended, or revoked, and
26 specifying the grounds for the ~~((charge))~~ complaint. Filing a
27 complaint does not make a complainant a party to the commission's
28 action.~~

29 (2) The commission has sole discretion whether to investigate a
30 complaint, and the commission has sole discretion whether to
31 investigate matters relating to certification, denial of
32 certification, or revocation of certification on any other basis,
33 without restriction as to the source or the existence of a complaint.
34 All complaints must be resolved with a written determination,
35 regardless of the decision to investigate.

36 (3) The commission may initiate an investigation in any instance
37 where there is a pattern of complaints or other actions that may not
38 have resulted in a formal adjudication of wrongdoing, but when
39 considered together demonstrate conduct that would constitute a

1 violation of RCW 43.101.105 (2) or (3). The commission must consider
2 the agency's policies and procedures and the officer's job duties and
3 assignment in determining what constitutes a pattern.

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

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

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

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

1 officer, and provide public notice on the commission website,
2 specifying the time, date, and place of hearing.

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

5 (1) Tribal governments may voluntarily request certification for
6 their police officers. Tribal governments requesting certification
7 for their police officers must enter into a written agreement with
8 the commission. The agreement must require the tribal law enforcement
9 agency and its officers to comply with all of the requirements for
10 granting, denying, and revoking certification as those requirements
11 are applied to peace officers certified under this chapter and the
12 rules of the commission.

13 (2) Officers making application for certification as tribal
14 police officers shall meet the requirements of this chapter and the
15 rules of the commission as those requirements are applied to
16 certification of peace officers. Application for certification as a
17 tribal police officer shall be accepted and processed in the same
18 manner as those for certification of peace officers.

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

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

24 ~~((Indian tribe))~~ Tribal police officers and employees who are
25 engaged in law enforcement activities and who do not qualify as
26 "criminal justice personnel" or "law enforcement personnel" under RCW
27 43.101.010~~((, as now law or hereafter amended,))~~ may be provided
28 training under this chapter if: (a) The tribe is recognized by the
29 federal government, and (b) the tribe pays to the commission the full
30 cost of providing such training. The commission shall place all money
31 received under this section into the criminal justice training
32 account.

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

35 (1) The commission~~((, its boards,))~~ and individuals acting on
36 behalf of the commission ~~((and its boards))~~ are immune from suit in
37 any civil or criminal action contesting or based upon proceedings or

1 other official acts performed in the course of their duties in the
2 administration and enforcement of this chapter.

3 (2) Without limiting the generality of the foregoing, the
4 commission and individuals acting on behalf of the commission are
5 immune from suit in any civil action based on the certification,
6 denial of certification, suspension, or decertification of peace
7 officers, reserve officers, or corrections officers.

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

10 (1) The commission shall offer a training session on personal
11 crisis recognition and crisis intervention services to criminal
12 justice, (~~correctional personnel~~) corrections, and other public
13 safety employees. The training shall be implemented by the commission
14 in consultation with appropriate public and private organizations
15 that have expertise in crisis referral services and in the underlying
16 conditions leading to the need for crisis referral.

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

20 (a) The description and underlying causes of problems that may
21 have an impact on the personal and professional lives of public
22 safety employees, including mental health issues, chemical
23 dependency, domestic violence, financial problems, and other personal
24 crises;

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

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

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

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

1 The chief administrative law judge shall designate an
2 administrative law judge with subject matter expertise to serve, as
3 the need arises, as presiding officer in ((state)):

4 (1) State patrol disciplinary hearings conducted under RCW
5 43.43.090; and

6 (2) Decertification hearings conducted under RCW 43.101.380.

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

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

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

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

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

37 (ii) The department of origin of the records has made a
38 satisfactory showing to the state records committee that the
39 retention of the records for a minimum of six years is both

1 unnecessary and uneconomical, particularly where lesser federal
2 retention periods for records generated by the state under federal
3 programs have been established; or

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

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

14 The state archivist may furnish appropriate information,
15 suggestions, and guidelines to local government agencies for their
16 assistance in the preparation of lists and schedules or any other
17 matter relating to the retention, preservation, or destruction of
18 records under this chapter. The local records committee may adopt
19 appropriate regulations establishing procedures to be followed in
20 such matters.

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

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

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

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

4 (c) Any record transferred to the Washington association of
5 sheriffs and police chiefs pursuant to (b) of this subsection shall
6 be deemed to no longer constitute a public record pursuant to RCW
7 42.56.010 and shall be exempt from public disclosure. Such records
8 shall be disseminated only to criminal justice agencies as defined in
9 RCW 10.97.030 for the purpose of determining if a sex offender met
10 the criteria of a sexually violent predator as defined in chapter
11 71.09 RCW and the end-of-sentence review committee as defined by RCW
12 72.09.345 for the purpose of fulfilling its duties under RCW
13 71.09.025 and 9.95.420.

14 Electronic records marked as sealed shall only be accessible by
15 criminal justice agencies as defined in RCW 10.97.030 who would
16 otherwise have access to a sealed paper copy of the document, the
17 end-of-sentence review committee as defined by RCW 72.09.345 for the
18 purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420,
19 and the system administrator for the purposes of system
20 administration and maintenance.

21 (3) Except as otherwise provided by law, county, municipal, and
22 other local government agencies may, as an alternative to destroying
23 noncurrent public records having no further administrative or legal
24 value, donate the public records to the state library, local library,
25 historical society, genealogical society, or similar society or
26 organization.

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

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

29 (b) The local records committee has approved the destruction of
30 the public records; and

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

33 (4) Personnel records for any peace officer or corrections
34 officer must be retained for the duration of the officer's employment
35 and a minimum of 10 years thereafter. Such records include all
36 misconduct and equal employment opportunity complaints, progressive
37 discipline imposed including written reprimands, supervisor coaching,
38 suspensions, involuntary transfers, other disciplinary appeals and
39 litigation records, and any other records needed to comply with the
40 requirements set forth in RCW 43.101.095 and 43.101.135.

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

3 (1) The procedures governing adjudicative proceedings before
4 agencies under chapter 34.05 RCW, the administrative procedure act,
5 govern hearings before the commission and govern all other actions
6 before the commission unless otherwise provided in this chapter. The
7 standard of proof in actions before the commission is (~~clear,~~
8 ~~eogent, and convincing~~) a preponderance of the evidence.

9 (2) In all hearings requested under RCW 43.101.155 (~~or~~
10 ~~43.101.156~~), an administrative law judge appointed under chapter
11 34.12 RCW shall be the presiding officer, shall make all necessary
12 rulings in the course of the hearing, and shall issue a proposed
13 recommendation, but is not entitled to vote. In addition, a five-
14 member hearings panel shall (~~both~~) hear the case and make the
15 commission's final administrative decision. (~~Members of the~~
16 commission may, but need not, be appointed to the hearings panels.)

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

19 (a) When a hearing is requested in relation to a certification
20 action of a Washington peace officer (~~who is not a peace officer of~~
21 ~~the Washington state patrol~~), the commission shall appoint to the
22 panel: (i) One police chief(~~;~~ ~~(ii) one~~) or sheriff from an agency
23 not a current or past employer of the peace officer; (~~(iii) two~~)
24 (ii) one certified Washington peace officer(~~s~~) who (~~are~~) is at or
25 below the level of first line supervisor(~~, one of whom is from a~~
26 ~~city or county law enforcement agency,~~) and who (~~have~~) has at
27 least ten years' experience as a peace officer(~~s~~); (~~and (iv) one~~
28 ~~person who is not currently a peace officer and who represents a~~
29 ~~community college or four-year college or university~~) (iii) one
30 civilian member of the commission as appointed under RCW
31 43.101.030(1) (f) through (h); (iv) one member of the public who is
32 not a prosecutor, defense attorney, judge, or law enforcement
33 officer; and (v) one person with expertise and background in police
34 accountability who is not a current or former peace officer or
35 corrections officer.

36 (b) (~~When a hearing is requested in relation to a certification~~
37 ~~action of a peace officer of the Washington state patrol, the~~
38 ~~commission shall appoint to the panel: (i) Either one police chief or~~
39 ~~one sheriff; (ii) one administrator of the state patrol; (iii) one~~
40 ~~certified Washington peace officer who is at or below the level of~~

1 ~~first line supervisor, who is not a state patrol officer, and who has~~
2 ~~at least ten years' experience as a peace officer; (iv) one state~~
3 ~~patrol officer who is at or below the level of first line supervisor,~~
4 ~~and who has at least ten years' experience as a peace officer; and~~
5 ~~(v) one person who is not currently a peace officer and who~~
6 ~~represents a community college or four-year college or university.~~

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

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

39 ~~((-e-))~~ (d) Persons appointed to hearings panels by the
40 commission shall, in relation to any certification action on which

1 they sit, have the powers, duties, and immunities, and are entitled
2 to the emoluments, including travel expenses in accordance with RCW
3 43.03.050 and 43.03.060, of regular commission members.

4 ~~((3) Where the charge upon which revocation or denial is based~~
5 ~~is that a peace officer or corrections officer was "discharged for~~
6 ~~disqualifying misconduct," and the discharge is "final," within the~~
7 ~~meaning of RCW 43.101.105(1)(d) or 43.101.106(4), and the officer~~
8 ~~received a civil service hearing or arbitration hearing culminating~~
9 ~~in an affirming decision following separation from service by the~~
10 ~~employer, the hearings panel may revoke or deny certification if the~~
11 ~~hearings panel determines that the discharge occurred and was based~~
12 ~~on disqualifying misconduct;))~~ (4) In decertification matters where
13 there was a due process hearing or a disciplinary appeals hearing
14 following an investigation by a law enforcement agency, or a criminal
15 hearing regarding the alleged misconduct, the hearings panel need not
16 redetermine the underlying facts but may make ~~((this))~~ its
17 determination based solely on review of the records and decision
18 relating to ~~((the employment separation))~~ those proceedings and any
19 investigative or summary materials from the administrative law judge,
20 legal counsel, and commission staff. However, the hearings panel may,
21 in its discretion, consider additional evidence to determine whether
22 ~~((such a discharge))~~ misconduct occurred ~~((and was based on such~~
23 ~~disqualifying misconduct))~~. The hearings panel shall, upon written
24 request by the subject peace officer or corrections officer, allow
25 the peace officer or corrections officer to present additional
26 evidence of extenuating circumstances.

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

39 ~~Where the charge upon which revocation or denial is based is~~
40 ~~under RCW 43.101.105(1) (a), (b), (c), or (f) or 43.101.106 (1), (2),~~

1 ~~(5), or (6), the hearings panel shall determine the underlying facts~~
2 ~~relating to the charge upon which revocation or denial of~~
3 ~~certification is based.~~

4 ~~(4))~~ (5) The commission is authorized to proceed regardless of
5 whether an arbitrator or other appellate decision maker overturns the
6 discipline imposed by the officer's employing agency or whether the
7 agency settles an appeal. No action or failure to act by a law
8 enforcement agency or corrections agency or decision resulting from
9 an appeal of that action precludes action by the commission to
10 suspend or revoke an officer's certificate or to require remedial
11 training for the officer.

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

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

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

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

23 (1) Except as provided under subsection (2) of this section,
24 ~~((the following records of the commission are confidential and exempt~~
25 ~~from public disclosure: (a) The contents of personnel action reports~~
26 ~~filed under RCW 43.101.135 or 43.101.136; (b))~~) all files, papers,
27 and other information obtained by the commission as part of an
28 initial background investigation pursuant to RCW 43.101.095 ~~((5) or~~
29 ~~43.101.096; and (c) all investigative files of the commission~~
30 ~~compiled in carrying out the responsibilities of the commission under~~
31 ~~this chapter))~~ (2) and (4) are confidential and exempt from public
32 disclosure. Such records are not subject to public disclosure,
33 subpoena, or discovery proceedings in any civil action, except as
34 provided in ~~((subsection (5) of this section))~~ RCW 43.101.380(6) or
35 which become part of the record in a suspension or decertification
36 matter.

37 (2) Records which are otherwise confidential and exempt under
38 subsection (1) of this section may be reviewed and copied: (a) By the
39 officer involved or the officer's counsel or authorized

1 representative, who may review the officer's file and may submit any
2 additional exculpatory or explanatory evidence, statements, or other
3 information, any of which must be included in the file; (b) by a duly
4 authorized representative of (i) the agency of termination, or (ii) a
5 current employing law enforcement or corrections agency, which may
6 review and copy its employee-officer's file; or (c) by a
7 representative of or investigator for the commission.

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

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

22 ~~(5) The hearings, but not the deliberations, of the hearings
23 board are open to the public. The transcripts, admitted evidence, and
24 written decisions of the hearings board on behalf of the commission
25 are not confidential or exempt from public disclosure, and are
26 subject to subpoena and discovery proceedings in civil actions.~~

27 (6)) The commission shall maintain a database that is publicly
28 searchable, machine readable, and exportable, and accompanied by a
29 complete, plain-language data dictionary describing the names of
30 officers and employing agencies, all conduct investigated,
31 certifications denied, notices and accompanying information provided
32 by law enforcement or correctional agencies, including the reasons
33 for separation from the agency, decertification or suspension actions
34 pursued, and final disposition and the reasons therefor for at least
35 30 years after final disposition of each incident. The dates for each
36 material step of the process must be included. Any decertification
37 must be reported to the national decertification index.

38 (5) Every individual, legal entity, and agency of federal, state,
39 or local government is immune from civil liability, whether direct or

1 derivative, for providing information to the commission in good
2 faith.

3 NEW SECTION. **Sec. 22.** A new section is added to chapter 43.101
4 RCW to read as follows:

5 The commission must develop policies, procedures, and rules to
6 ensure that the goals of this act are fully implemented as intended
7 and in a timely manner, and to provide appropriate clarity to
8 affected persons and entities as to how the commission will process
9 complaints, investigations, and hearings, and impose sanctions,
10 related to officer certification. The commission must work in
11 collaboration with interested parties and entities in developing the
12 policies, procedures, and rules, and must take into account issues
13 regarding when and how the commission may appropriately exercise
14 authority in relation to simultaneous investigations and disciplinary
15 processes, and how the commission may exercise available remedies in
16 a manner that is appropriate to case circumstances and consistent
17 with the goals of this act. The policies, procedures, and rules must
18 be completed by June 30, 2022.

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

21 The provisions of this chapter are intended to be additional to
22 other remedies and shall be liberally construed to accomplish their
23 purpose. Except as provided in RCW 53.18.015, 43.101.095, and
24 43.101.135, if any provision of this chapter conflicts with any other
25 statute, ordinance, rule or regulation of any public employer, the
26 provisions of this chapter shall control.

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

29 (1) An employer may not:

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

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

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

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

8 (e) Take adverse action against an employee or applicant because
9 the employee or applicant refuses to disclose his or her login
10 information, access his or her personal social networking account in
11 the employer's presence, add a person to the list of contacts
12 associated with his or her personal social networking account, or
13 alter the settings on his or her personal social networking account
14 that affect a third party's ability to view the contents of the
15 account.

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

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

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

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

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

32 (3) This section does not:

33 (a) Apply to a social network, intranet, or other technology
34 platform that is intended primarily to facilitate work-related
35 information exchange, collaboration, or communication by employees or
36 other workers;

37 (b) Prohibit an employer from requesting or requiring an employee
38 to disclose login information for access to: (i) An account or
39 service provided by virtue of the employee's employment relationship

1 with the employer; or (ii) an electronic communications device or
2 online account paid for or supplied by the employer;

3 (c) Prohibit an employer from enforcing existing personnel
4 policies that do not conflict with this section; (~~or~~)

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

8 (e) Apply to a background investigation in accordance with RCW
9 43.101.095. However, the officer must not be required to provide
10 login information.

11 (4) If, through the use of an employer-provided electronic
12 communications device or an electronic device or program that
13 monitors an employer's network, an employer inadvertently receives an
14 employee's login information, the employer is not liable for
15 possessing the information but may not use the login information to
16 access the employee's personal social networking account.

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

18 (a) "Adverse action" means: Discharging, disciplining, or
19 otherwise penalizing an employee; threatening to discharge,
20 discipline, or otherwise penalize an employee; and failing or
21 refusing to hire an applicant.

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

23 (c) "Electronic communications device" means a device that uses
24 electronic signals to create, transmit, and receive information,
25 including computers, telephones, personal digital assistants, and
26 other similar devices.

27 (d) "Employer" means any person, firm, corporation, partnership,
28 business trust, legal representative, or other business entity which
29 engages in any business, industry, profession, or other activity in
30 this state and employs one or more employees, and includes the state,
31 any state institution, state agency, political subdivisions of the
32 state, and any municipal corporation or quasi-municipal corporation.
33 "Employer" includes an agent, a representative, or a designee of the
34 employer.

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

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

1 The provisions of this chapter apply to:

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

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

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

10 In addition to the exemptions set forth in RCW 41.06.070, the
11 provisions of this chapter do not apply in the Washington state
12 criminal justice training commission to two confidential secretaries
13 involved in managing the confidential records under RCW 43.101.135
14 and 43.101.400.

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

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

21 (1) RCW 43.101.096 (Corrections officer certification) and 2020 c
22 119 s 3;

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

25 (3) RCW 43.101.116 (Denial or revocation of corrections officer
26 certification—Readmission to academy—Reinstatement) and 2020 c 119 s
27 5;

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

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

33 (6) RCW 43.101.156 (Denial or revocation of corrections officer
34 certification—Statement of charges—Notice—Hearing) and 2020 c 119 s
35 9; and

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

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

5 A general authority Washington law enforcement agency or limited
6 authority Washington law enforcement agency is prohibited from
7 considering the application for any office, place, position, or
8 employment within the agency if the applicant has not provided the
9 agency a document, voluntarily and knowingly signed by the applicant,
10 that authorizes each prior employer to release any and all
11 information relating to the applicant's employment, and further
12 releasing and holding harmless the agency and each prior employer
13 from any and all liability that may potentially result from the
14 release and use of such information provided.

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

17 (1) All law enforcement personnel, except volunteers, and reserve
18 officers whether paid or unpaid, initially employed on or after
19 January 1, 1978, shall engage in basic law enforcement training which
20 complies with standards adopted by the commission pursuant to RCW
21 43.101.080. For personnel initially employed before January 1, 1990,
22 such training shall be successfully completed during the first
23 fifteen months of employment of such personnel unless otherwise
24 extended or waived by the commission and shall be requisite to the
25 continuation of such employment. Personnel initially employed on or
26 after January 1, 1990, shall commence basic training during the first
27 six months of employment unless the basic training requirement is
28 otherwise waived or extended by the commission. Successful completion
29 of basic training is requisite to the continuation of employment of
30 such personnel initially employed on or after January 1, 1990.

31 (2) Except as (~~otherwise~~) provided in (~~this chapter~~) RCW
32 43.101.170, the commission shall provide the aforementioned training
33 (~~together with~~) and shall have the sole authority to do so. The
34 commission shall provide necessary facilities, supplies, materials,
35 and the board and room of noncommuting attendees for seven days per
36 week, except during the 2017-2019 and 2019-2021 fiscal biennia when
37 the employing, county, city, or state law enforcement agency shall
38 reimburse the commission for twenty-five percent of the cost of

1 training its personnel. Additionally, to the extent funds are
2 provided for this purpose, the commission shall reimburse to
3 participating law enforcement agencies with ten or less full-time
4 commissioned patrol officers the cost of temporary replacement of
5 each officer who is enrolled in basic law enforcement training:
6 PROVIDED, That such reimbursement shall include only the actual cost
7 of temporary replacement not to exceed the total amount of salary and
8 benefits received by the replaced officer during his or her training
9 period."

10 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 20 (from 17); reinstates current law including two incumbent chiefs of police (rather than one in the underlying bill); increases the number of line officers from one to two, and requires that the officers be from agencies that have at least 15 officers and are different than the agencies the sheriff and police chiefs are associated with; changes "private person" membership to "community member" membership, and additionally 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; and removes the member representing the Federal Bureau of Investigation.

(3) Provides that the CJTC has sole authority to provide basic law enforcement training.

(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; and 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.

(5) Specifies that the CJTC must provide for the comprehensive and timely investigation of complaints where necessary to ensure adherence to agency policy (rather than policy) and law.

(6) 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.

(7) Modifies certain decertification grounds: 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 state law (rather than policy or procedure); and 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).

(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 any CJTC action, but provides that the agency may still terminate an officer based on the underlying conduct if the agency action conforms to the rules and procedures as determined through collective bargaining.

(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 technical correctness.

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

--- END ---