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**HOUSE BILL 1387**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Ramos, Goodman, Callan, Ryu, Ramel, and Pollet

AN ACT Relating to requiring the criminal justice training commission to establish a program to recruit and train a pool of applicants who may be employed by certain law enforcement agencies in the state; amending RCW 43.101.095; reenacting and amending RCW 43.101.010; adding new sections to chapter 43.101 RCW; and creating a new section.

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

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

(1) By January 1, 2025, the commission shall establish a program to recruit, and issue certifications to, a pool of candidates who may be hired as peace officers by city and county law enforcement agencies in the state.

(2) When recruiting candidates to participate in the pool, the commission shall utilize best human resources practices to produce an applicant pool with a broad spectrum of backgrounds and experience.

(3) To be eligible to participate in the pool established in this section, an applicant must meet the same requirements as a person who has received a conditional offer of employment from a law enforcement agency, including a background check under RCW 43.101.095.

(4) Once an applicant is accepted into the pool, the applicant shall successfully complete basic law enforcement training and may be certified by the commission under this chapter. For purposes of prioritizing training availability, the commission shall treat a pool applicant the same as an applicant with a conditional offer of employment from a law enforcement agency.

(5) The commission may utilize contractors to meet the requirements of this section to the extent allowed by law.

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

(1) The following types of city or county law enforcement agencies may issue an offer of employment to any applicant who is participating in the pool established in section 1 of this act:

(a) A law enforcement agency for a city with a population of less than 100,000; or

(b) A county law enforcement agency for a county with a population of less than 300,000.

(2) A city or county law enforcement agency may issue an offer of employment to a pool applicant at any time, including prior to the applicant successfully completing basic law enforcement training. An offer of employment to an applicant prior to the applicant's successful completion of basic law enforcement training shall be considered to be a conditional offer of employment for purposes of this chapter and does not affect the requirement that the applicant successfully complete the training prior to certification. After an applicant is hired by a law enforcement agency under this subsection, the applicant is considered an employee of the law enforcement agency for purposes of this chapter.

(3) A law enforcement agency employing a peace officer under this section shall reimburse the commission for the per capita costs of training that officer in an amount established in rule by the commission. When calculating the per capita training costs for purposes of this subsection, the commission may not include costs it has incurred in establishing the program under section 1 of this act.

**Sec.**  RCW 43.101.010 and 2021 c 323 s 1 are each reenacted and amended to read as follows:

When used in this chapter:

(1) "Applicant" means an individual who has received a conditional offer of employment with a law enforcement or corrections agency or an individual participating in the pool established in section 1 of this act.

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

(3) "Commission" means the Washington state criminal justice training commission.

(4) "Convicted" means at the time a plea of guilty, nolo contendere, or deferred sentence has been accepted, or a verdict of guilty or finding of guilt has been filed, notwithstanding the pendency of any future proceedings, including but not limited to sentencing, posttrial or postfact-finding motions and appeals. "Conviction" includes all instances in which a plea of guilty or nolo contendere is the basis for conviction, all proceedings in which there is a case disposition agreement, and any equivalent disposition by a court in a jurisdiction other than the state of Washington.

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

(6) "Corrections officer" means any corrections agency employee whose primary job function is to provide for the custody, safety, and security of adult persons in jails and detention facilities in the state. "Corrections officer" does not include individuals employed by state agencies.

(7) "Criminal justice personnel" means any person who serves as a peace officer, reserve officer, or corrections officer.

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

(9) "Law enforcement personnel" means any person elected, appointed, or employed as a general authority Washington peace officer as defined in RCW 10.93.020.

(10) "Peace officer" has the same meaning as a general authority Washington peace officer as defined in RCW 10.93.020. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter. Individuals participating in the pool established in section 1 of this act who have successfully completed basic law enforcement training are not peace officers for purposes of this chapter unless they are employed by a law enforcement agency under section 2 of this act.

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

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

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

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

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

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

**Sec.**  RCW 43.101.095 and 2021 c 323 s 8 are each amended to read as follows:

(1) As a condition of employment, all Washington peace officers and corrections officers are required to obtain certification as a peace officer or corrections officer or exemption therefrom and maintain certification as required by this chapter and the rules of the commission.

(2)(a)(i) Any applicant who has been offered a conditional offer of employment as a peace officer or reserve officer or offered a conditional offer of employment as a corrections officer after July 1, 2021, including any person whose certification has lapsed as a result of a break of more than 24 consecutive months in the officer's service for a reason other than being recalled to military service, must submit to a background investigation to determine the applicant's suitability for employment. Employing agencies may only make a conditional offer of employment pending completion of the background check and shall verify in writing to the commission that they have complied with all background check requirements prior to making any nonconditional offer of employment.

(ii) Any applicant for participation in the pool established in section 1 of this act must submit to a background investigation to determine the applicant's suitability for employment prior to participating in the program.

(b) The background check must include:

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

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

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

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

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

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

(vii) A polygraph or similar assessment administered by an experienced professional with appropriate training and in compliance with standards established in rules of the commission; and

(viii) Except as otherwise provided in this section, any test or assessment to be administered as part of the background investigation shall be administered in compliance with standards established in rules of the commission.

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

(d) The employing law enforcement agency or the commission may require that each person who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or $400, whichever is less. Employing agencies or the commission may establish a payment plan if they determine that the person does not readily have the means to pay the testing fee.

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

(4) As a condition of certification or participation in the pool established in section 1 of this act, a peace officer or corrections officer must, on a form devised or adopted by the commission, authorize the release to the employing agency and commission of the officer's personnel files, including disciplinary, termination, civil or criminal investigation, or other records or information that are directly related to a certification matter or decertification matter before the commission. The peace officer or corrections officer must also consent to and facilitate a review of the officer's social media accounts, however, consistent with RCW 49.44.200, the officer is not required to provide login information. The release of information may not be delayed, limited, or precluded by any agreement or contract between the officer, or the officer's union, and the entity responsible for the records or information.

(5) The employing agency and commission are authorized to receive criminal history record information that includes nonconviction data for any purpose associated with employment or certification under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.

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

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

(b) Prior to participation in the pool established in section 1 of this act, the commission must complete the background check and certify that no information has been found that would disqualify the applicant from certification and that the applicant is suitable for employment as a peace officer.

NEW SECTION. **Sec.**  The criminal justice training commission may adopt any rules necessary to implement this act.

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