

2SHB 1399 - H AMD TO H AMD (H-1916.2/25) **777**

By Representative Burnett

1 Beginning on page 1, line 3, strike all material through "void."
2 on page 23, line 30 and insert the following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that specific laws
4 governing the eligibility requirements, duties, and responsibilities
5 of police chiefs and marshals should be updated and revised to
6 reflect current best practices, and to ensure that local law
7 enforcement executives, whether police chiefs or marshals are subject
8 to the same requirements and standards. By establishing such
9 consistent requirements and standards, the legislature intends to
10 enhance the effectiveness, professionalism, and accountability of law
11 enforcement executives, to promote public trust and confidence in law
12 enforcement, and to increase community safety.

13 Because all those who serve in law enforcement must maintain
14 their peace officer certification, the legislature finds that state
15 law should be clear regarding actions taken when a police chief or
16 marshal has their certification revoked, to ensure that state law
17 reflects consistent principles of strong accountability for all
18 ranks.

19 The legislature finds further that volunteers, if used by local
20 law enforcement agency executives to assist with agency needs, should
21 be limited to roles that do not include the authority to enforce
22 criminal laws, including pursuits, the detention and arrest of
23 others, the use of force or deadly force, or the carrying of firearms
24 or other weapons, unless the person has completed peace officer
25 training and certification requirements. The legislature finds that
26 law enforcement agencies must have policies, and local jurisdictions
27 ordinances, regarding training requirements for use of firearms or
28 other weapons by specially commissioned officers, circumscribing
29 limitations on use of uniforms and badges, and prescribing the
30 permissible roles for volunteers, which may include, but are not
31 limited to, roles such as technical and administrative support,
32 bicycle recovery, community crime prevention coordination, vehicle

1 maintenance, helping with search and rescue, serving as faith
2 leaders, helping with parking enforcement and traffic management,
3 assisting with parks and recreation, animal control and caring for
4 domestic animals that may not include use of dogs to track people or
5 animals other than for search and rescue, and other public safety-
6 related community service, education, and outreach work.

7 **Sec. 2.** RCW 35.21.333 and 2013 c 39 s 17 are each amended to
8 read as follows:

9 (1) A person seeking appointment to the office of chief of police
10 or marshal (~~(, of a city or town, including a code city, with a~~
11 ~~population in excess of one thousand)) in any city or town, is
12 ~~((ineligible unless))~~ eligible for appointment and for remaining in
13 that office if that person:~~

14 (a) Is a citizen of the United States of America;

15 (b) Is at least 25 years old;

16 (c) Has obtained a high school diploma or high school equivalency
17 certificate as provided in RCW 28B.50.536;

18 ~~((e))~~ (d) Has not been convicted under the laws of this state,
19 another state, ~~((or))~~ the United States, or the equivalent under
20 foreign law, of a felony;

21 ~~((d))~~ (e) Has not been convicted under the laws of this state,
22 another state, the United States, or the equivalent under foreign law
23 of a gross misdemeanor ~~((or any crime))~~ involving moral turpitude
24 ~~((within five years of the date of application)), dishonesty, fraud,~~
25 or corruption;

26 ~~((e))~~ (f) Has not engaged in conduct meeting the criteria
27 requiring denial or revocation of certification set forth in RCW
28 43.101.105(2);

29 (g) Has received at least a general discharge under honorable
30 conditions from any branch of the armed services for any military
31 service if the person was in the military service;

32 ~~((f))~~ (h) Has completed at least two years of regular,
33 uninterrupted, full-time ~~((commissioned))~~ law enforcement agency
34 employment involving enforcement responsibilities with a government
35 law enforcement agency; ~~((and~~

36 ~~(g) The person has been certified as a regular and commissioned~~
37 ~~enforcement officer through compliance with this state's basic~~
38 ~~training requirement or equivalency))~~

1 (i) Within 12 months of assuming office, unless otherwise
2 extended by the criminal justice training commission, has obtained
3 certification and maintains certification as required under chapter
4 43.101 RCW and the rules of the commission; and

5 (j) Except as provided in subsection (3) of this section, if not
6 yet certified, has met the background investigation requirements
7 under RCW 43.101.095, and if certified, has met the background
8 investigation requirements that confirm that the person is eligible
9 under this subsection.

10 (i) The background investigation must be completed by the
11 appointing authority no earlier than six months prior to the date of
12 appointment. The appointing authority must submit verification to the
13 criminal justice training commission that the applicant meets the
14 eligibility criteria, has complied with all applicable standards and
15 was not determined by the background investigation and commission
16 rules to be unsuitable for employment by a law enforcement agency or
17 to serve in the office of chief of police or marshal. Such
18 verification is a public record.

19 (ii) The appointing authority is responsible for any fees
20 associated with the background investigation.

21 ~~(2) ((A person seeking appointment to the office of chief of~~
22 ~~police or marshal, of a city or town, including a code city, with a~~
23 ~~population of one thousand or less, is ineligible unless that person~~
24 ~~conforms with the requirements of subsection (1) (a) through (e) of~~
25 ~~this section. A person so appointed as chief of police or marshal~~
26 ~~must successfully complete the state's basic training requirement or~~
27 ~~equivalency within nine months after such appointment, unless an~~
28 ~~extension has been granted by the criminal justice training~~
29 ~~commission.~~

30 ~~(3))~~ A person seeking appointment to the office of chief of
31 police or marshal shall provide a sworn statement under penalty of
32 perjury to the appointing authority stating that the person meets the
33 requirements of this section.

34 (3) The background investigation requirements of this section do
35 not apply to any person who is holding the office of chief of police
36 or marshal as of the effective date of this section, unless the
37 person seeks appointment to a different office of chief of police or
38 marshal.

39 (4) For the purposes of this section, "government law enforcement
40 agency" means a general authority Washington law enforcement agency

1 or a limited authority Washington law enforcement agency as defined
2 in RCW 10.93.020, or a state or federal governmental agency that is
3 authorized by law to engage in or supervise the prevention,
4 detection, investigation, or prosecution of, or the incarceration of
5 any person for, any violation of law.

6 **Sec. 3.** RCW 35.21.334 and 1987 c 339 s 5 are each amended to
7 read as follows:

8 (1) Before making an appointment ((in)) to the office of chief of
9 police or marshal in any city or town, the appointing ((agency shall
10 complete a thorough background investigation of the candidate))
11 authority must attest as part of the public record of appointment
12 that the requirements of RCW 35.21.333 have been met. ((The
13 Washington association of sheriffs and police chiefs shall develop
14 advisory procedures which may be used by the appointing authority in
15 completing its background investigation of candidates for the office
16 of chief of police or marshal))

17 (2) Such appointment shall be terminated, and a vacancy created,
18 if the chief of police's or marshal's certification is not maintained
19 as required, if the chief of police or marshal is disqualified from
20 serving as a law enforcement officer because of decertification under
21 chapter 43.101 RCW, or if the other requirements of RCW 35.21.333 are
22 determined to have not been met, or to have not been complied with
23 while in office. The appointing city or town authority shall appoint
24 a replacement to fill the office. The person appointed must meet the
25 requirements of RCW 35.21.333.

26 **Sec. 4.** RCW 35.23.161 and 1994 c 81 s 40 are each amended to
27 read as follows:

28 The department of police in a city of the second class shall be
29 under the direction and control of the chief of police subject to the
30 direction of the mayor. The city and chief must comply with the
31 requirements set forth in RCW 35.21.333 and 35.21.334. Any police
32 officer may pursue and arrest violators of city ordinances beyond the
33 city limits.

34 ~~((Every citizen shall lend the police chief aid, when required,~~
35 ~~for the arrest of offenders and maintenance of public order. With the~~
36 ~~concurrence of the mayor, the police chief may appoint additional~~
37 ~~police officers to serve for one day only under orders of the chief~~
38 ~~in the preservation of public order.))~~ The city and department must

1 comply with the requirements set forth in section 6 of this act
2 regarding use of volunteers and specially commissioned officers.

3 The police chief shall have the same authority as that conferred
4 upon sheriffs for the suppression of any riot, public tumult,
5 disturbance of the peace, or resistance against the laws or the
6 public authorities in the lawful exercise of their functions and
7 shall be entitled to the same protection.

8 The police chief shall perform such other services as may be
9 required by statute or ordinances of the city.

10 **Sec. 5.** RCW 35.27.240 and 2007 c 218 s 67 are each amended to
11 read as follows:

12 The department of police in a town shall be under the direction
13 and control of the marshal subject to the direction of the mayor. The
14 town and marshal must comply with the requirements set forth in RCW
15 35.21.333 and 35.21.334. He or she may pursue and arrest violators of
16 town ordinances beyond the town limits.

17 The marshal's lawful orders shall be promptly executed by
18 deputies(~~(r)~~) and police officers (~~(and watchpersons. Every citizen~~
19 ~~shall lend him or her aid, when required, for the arrest of offenders~~
20 ~~and maintenance of public order)~~). He or she may appoint, subject to
21 the approval of the mayor, one or more deputies, for whose acts he
22 and his or her bondspersons shall be responsible, whose compensation
23 shall be fixed by the council. (~~(With the concurrence of the mayor,~~
24 ~~the marshal may appoint additional police officers for one day only~~
25 ~~when necessary for the preservation of public order)~~) The town and
26 department must comply with the requirements set forth in section 6
27 of this act regarding use of volunteers and specially commissioned
28 officers.

29 The marshal shall have the same authority as that conferred upon
30 sheriffs for the suppression of any riot, public tumult, disturbance
31 of the peace, or resistance against the laws or public authorities in
32 the lawful exercise of their functions and shall be entitled to the
33 same protection.

34 The marshal shall execute and return all process issued and
35 directed to (~~(him or her)~~) the marshal by any legal authority (~~(and~~
36 ~~for his or her services shall receive the same fees as are paid to~~
37 ~~constables)~~). The marshal shall perform such other services as the
38 council by ordinance may require.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 35.21
2 RCW to read as follows:

3 (1) (a) Any law enforcement agency in any city or town that uses
4 volunteers to assist in the work of its law enforcement agency may
5 not provide authority to these volunteers to enforce criminal laws,
6 including pursuits, the detention and arrest of others, the use of
7 force or deadly force, the carrying of or use of firearms or other
8 weapons, or using dogs to track people or animals other than for
9 purposes of search and rescue.

10 (b) A law enforcement agency in a city or town may utilize
11 volunteers to assist with roles, including but not limited to,
12 technical and administrative support, bicycle recovery, community
13 crime prevention coordination, vehicle maintenance, helping with
14 search and rescue, serving as faith leaders, parking enforcement and
15 traffic management, assisting with parks and recreation, animal
16 control and caring for domestic animals, and other public safety-
17 related community service, education, and outreach work.

18 (2) (a) Limitations on authority pursuant to subsection (1) of
19 this section and the required supervision of volunteers must be set
20 forth in that agency's policies and regulations. Agency policies and
21 regulations shall also include limitations on the authority of, and
22 requirements for, specially commissioned officers, including
23 requirements that specially commissioned officers are trained in use
24 of firearms or other weapons when authorized to use firearms or other
25 weapons. Policies and regulations shall also require that volunteers
26 and specially commissioned officers must be clearly identifiable by
27 the public as distinguishable from peace officers, and that if they
28 are provided badges or other identifying insignia, such
29 identification shall be officially issued by the agency and used only
30 while on duty in their authorized role.

31 (b) Any city or town that uses volunteers or specially
32 commissioned officers must adopt or amend their laws and ordinances
33 to comply with the requirements of this section. The requirements of
34 this section supersede, preempt, and invalidate any local law or
35 ordinance that conflicts with this section.

36 NEW SECTION. **Sec. 7.** A new section is added to chapter 35A.21
37 RCW to read as follows:

38 (1) (a) Any law enforcement agency in any code city that uses
39 volunteers to assist in the work of its law enforcement agency may

1 not provide authority to these volunteers to enforce criminal laws,
2 including pursuits, the detention and arrest of others, the use of
3 force or deadly force, the carrying of or use of firearms or other
4 weapons, or using dogs to track people or animals other than for
5 purposes of search and rescue.

6 (b) A law enforcement agency in a code city may utilize
7 volunteers to assist with roles including, but not limited to,
8 technical and administrative support, bicycle recovery, community
9 crime prevention coordination, vehicle maintenance, helping with
10 search and rescue, serving as faith leaders, parking enforcement and
11 traffic management, assisting with parks and recreation, animal
12 control and caring for domestic animals, and other public safety-
13 related community service, education, and outreach work.

14 (2)(a) Limitations on authority pursuant to subsection (1) of
15 this section and the required supervision of volunteers must be set
16 forth in that agency's policies and regulations. Agency policies and
17 regulations shall also include limitations on the authority of, and
18 requirements for, specially commissioned officers, including
19 requirements that specially commissioned officers are trained in use
20 of firearms or other weapons when authorized to use firearms or other
21 weapons. Policies and regulations shall also require that volunteers
22 and specially commissioned officers must be clearly identifiable by
23 the public as distinguishable from peace officers, and that if they
24 are provided badges or other identifying insignia, such
25 identification shall be officially issued by the agency and used only
26 while on duty in their authorized role.

27 (b) Any code city that uses volunteers or specially commissioned
28 officers must adopt or amend their laws and ordinances to comply with
29 the requirements of this section. The requirements of this section
30 supersede, preempt, and invalidate any local law or ordinance that
31 conflicts with this section.

32 **Sec. 8.** RCW 43.101.095 and 2024 c 330 s 10 are each amended to
33 read as follows:

34 (1) (a) As a condition of employment ~~((r))~~ or appointment to
35 office, all ~~((Washington))~~ peace officers and all corrections
36 officers are required to obtain certification ~~((as a peace officer or~~
37 ~~corrections officer or exemption therefrom))~~ and maintain
38 certification as required by this chapter and the rules of the
39 commission.

1 (b) To ensure that chiefs and marshals meet the requirements in
2 RCW 35.21.333 to obtain certification within 12 months of assuming
3 office, the commission must prioritize their access to any commission
4 training required for certification.

5 (2) (a) Any applicant (~~who has been offered a conditional offer~~
6 ~~of employment~~) seeking appointment or employment as a peace officer
7 (~~or~~), reserve officer, (~~offered a conditional offer of employment~~
8 ~~as a~~) corrections officer (~~after July 1, 2021~~), or (~~offered a~~
9 ~~conditional offer of employment~~) as a limited authority Washington
10 peace officer who if hired would qualify as a peace officer as
11 defined by RCW 43.101.010 (~~after July 1, 2023~~), must submit to a
12 background investigation to determine the applicant's suitability for
13 employment. This requirement (~~applies~~) does not apply to any person
14 whose certification has lapsed as a result of a break of more than 24
15 consecutive months in the officer's service (~~for a reason other~~
16 ~~than~~) as a result of being recalled into military service. Employing
17 agencies and appointing authorities may only make a conditional offer
18 of employment pending completion of the background (~~check~~)
19 investigation and shall (~~verify~~) attest in writing to the
20 commission that they have complied with all background (~~check~~)
21 investigation requirements prior to making any nonconditional offer
22 of employment.

23 (b) The background (~~check~~) investigation must have been
24 completed within the prior six months, and include:

25 (i) A check of criminal history, any national decertification
26 index, commission records, and all disciplinary records by any
27 previous law enforcement or correctional employer, including
28 complaints or investigations of misconduct and the reason for
29 separation from employment. Law enforcement or correctional agencies
30 that previously employed or received an application from the
31 applicant shall retain application records and disclose employment or
32 application information within 30 days of receiving a written request
33 from the employing agency conducting the background investigation,
34 including the reason for the officer's separation from the agency,
35 any information regarding the candidate's application to that agency,
36 and any other information obtained during the background
37 investigation conducted as part of the application process.
38 Complaints or investigations of misconduct must be disclosed
39 regardless of the result of the investigation or whether the
40 complaint was unfounded;

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

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

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

8 (v) Verification of immigrant or citizenship status as either a
9 citizen of the United States of America, lawful permanent resident,
10 or deferred action for childhood arrivals recipient;

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

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

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

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

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

33 (3) (a) The commission shall allow a peace officer or corrections
34 officer to retain status as a certified ~~((peace officer or
35 corrections))~~ officer as long as the officer: (i) Timely meets the
36 basic training requirements, or is exempted therefrom, in whole or in
37 part, under RCW 43.101.200 or under rule of the commission; (ii)
38 timely meets or is exempted from any other requirements under this
39 chapter as administered under the rules adopted by the commission;
40 (iii) is not denied certification by the commission under this

1 chapter; and (iv) has not had certification suspended or revoked by
2 the commission.

3 (b) The commission shall certify peace officers who are limited
4 authority Washington peace officers employed on or before July 1,
5 2023. Thereafter, the commission may revoke certification pursuant to
6 this chapter.

7 (4) As a condition of certification and of a background
8 investigation, a peace officer or corrections officer must ~~((, or on))~~:

9 (a) On a form devised or adopted by the commission, authorize the
10 release to the employing county, city, or agency and to the
11 commission of the officer's personnel files, including disciplinary,
12 termination, civil or criminal investigation, or other records or
13 information that are directly related to a certification matter or
14 decertification matter before the commission ~~((The peace officer or~~
15 ~~corrections officer must also consent))~~;

16 (b) Consent to and facilitate a review of the officer's social
17 media accounts, however, consistent with RCW 49.44.200, the officer
18 is not required to provide login information. The release of
19 information may not be delayed, limited, or precluded by any
20 agreement or contract between the officer, or the officer's union,
21 and the entity responsible for the records or information; and

22 (c) Indicate, on a form provided by the hiring agency, any prior
23 application materials, including any background investigation
24 conducted while seeking employment with any other law enforcement
25 agency, including where the applicant began but did not complete a
26 full background investigation.

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

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

38 (7) Prior to certification, or to appointment as a chief or
39 marshal, the employing agency shall ~~((certify))~~ attest to the
40 commission that the agency has received or conducted a completed

1 ~~((the))~~ background ~~((check))~~ investigation, no information has been
2 found that would disqualify the applicant from certification, ~~((and))~~
3 that the applicant ~~((is))~~ was determined by the background
4 investigation and under commission rules to be suitable for
5 employment as a peace officer ~~((or))~~, corrections officer, chief, or
6 marshal. Applicants determined by the background investigation to
7 have engaged in conduct meeting the criteria set forth in RCW
8 43.101.105(2) shall be considered unsuitable for employment as a
9 peace officer.

10 (8) All files, papers, and other information obtained as part of
11 the background investigation are confidential and exempt from public
12 disclosure under chapter 42.56 RCW. The verification by the
13 commission that the background investigation has been completed and
14 passed is a public record. The commission must retain the background
15 investigation files.

16 (9) (a) In order to assure consistent use of best practices
17 regarding the standards for determining whether a background
18 investigation has identified information that should disqualify an
19 applicant, the commission shall, by June 30, 2026, issue guidelines
20 with criteria to be applied by employing counties, cities, agencies,
21 and the commission in determining whether an applicant is suitable
22 for employment pursuant to this section.

23 (b) To assist in developing these guidelines regarding
24 potentially disqualifying criteria, the commission shall seek input
25 from individuals who have experience in conducting or reviewing law
26 enforcement background investigations, misconduct or human resource
27 complaints, investigations, or disciplinary decisions, or who provide
28 community perspective, which may include:

29 (i) Chiefs, sheriffs, law enforcement agency human resource
30 staff, legal counsel, or others from law enforcement agencies or
31 city, county, or state human resources departments;

32 (ii) Individuals who serve as or have served as polygraph
33 examiners or psychologists for law enforcement background
34 investigations;

35 (iii) Individuals who serve in or have served in law enforcement
36 accountability oversight roles;

37 (iv) Representatives from the Washington association of sheriffs
38 and police chiefs, the Washington state patrol, the Washington
39 fraternal order of police, the Washington council of police and

1 sheriffs, and a union representing the interests of peace officers
2 and corrections officers; and

3 (v) Community representatives, including a community member from
4 Eastern Washington.

5 (c) The guidelines shall include criteria that must result in
6 mandatory disqualification, and criteria that may result in
7 disqualification, including all grounds for the denial, suspension,
8 or revocation of an officer's certification under RCW 43.101.105(3),
9 with factors to be considered by the agency or by the commission in
10 making that discretionary determination.

11 (10) As used in this section, "applicant" includes a person
12 applying to serve as a new officer, a lateral transfer within the
13 state or from another state from a law enforcement or corrections
14 agency to a different law enforcement or corrections agency, or an
15 officer moving from a corrections division to a law enforcement
16 division or vice versa within the same agency unless exempted by the
17 commission, or a person seeking appointment as a chief or marshal.

18 (11) Every individual, legal entity, and agency of federal,
19 state, or local government is immune from civil liability, whether
20 direct or derivative, for providing information to the commission,
21 employing agencies, potential employing agencies, or appointing
22 authorities in good faith.

23 **Sec. 9.** RCW 10.93.170 and 2021 c 323 s 30 are each amended to
24 read as follows:

25 A general authority Washington law enforcement agency or limited
26 authority Washington law enforcement agency is prohibited from
27 considering the application for any office, place, position, or
28 employment within the agency if the applicant has not provided the
29 agency a document, voluntarily and knowingly signed by the applicant,
30 that authorizes each prior employer or each agency to which the
31 applicant has applied to release any and all information relating to
32 the applicant's employment or application for employment, and further
33 releasing and holding harmless the agency and each prior employer or
34 agency to which the applicant has applied from any and all liability
35 that may potentially result from the release and use of such
36 information provided.

37 **Sec. 10.** RCW 43.101.380 and 2021 c 323 s 20 are each amended to
38 read as follows:

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

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

14 (3) The commission shall appoint a panel to hear certification
15 actions as follows:

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

28 (b) When a hearing is requested in relation to a certification
29 action of a Washington corrections officer, the commission shall
30 appoint to the panel: (i) A person who heads either a city or county
31 corrections agency or facility or of a Washington state department of
32 corrections facility; (ii) one corrections officer who is at or below
33 the level of first line supervisor and who has at least ten years'
34 experience as a corrections officer; (iii) one civilian member of the
35 commission as appointed under RCW 43.101.030(1) (f) and (h) through
36 (j); (iv) one member of the public who is not a prosecutor, defense
37 attorney, judge, or law enforcement officer; and (v) one person with
38 expertise and background in police accountability who is not a
39 current or former peace officer or corrections officer.

1 (c) When a hearing is requested in relation to a certification
2 action of a tribal police officer, the commission shall appoint to
3 the panel (i) one tribal police chief; (ii) one tribal police officer
4 who is at or below the level of first line supervisor, and who has at
5 least ten years' experience as a peace officer; (iii) one civilian
6 member of the commission as appointed under RCW 43.101.030(1) (f) and
7 (h) through (j); (iv) one member of the public who is not a
8 prosecutor, defense attorney, judge, or law enforcement officer; and
9 (v) one person with expertise and background in police accountability
10 who is not a current or former peace officer or corrections officer.

11 (d) Persons appointed to hearings panels by the commission shall,
12 in relation to any certification action on which they sit, have the
13 powers, duties, and immunities, and are entitled to the emoluments,
14 including travel expenses in accordance with RCW 43.03.050 and
15 43.03.060, of regular commission members.

16 (4) In decertification matters where there was a due process
17 hearing or a disciplinary appeals hearing following an investigation
18 by a law enforcement agency, or a criminal hearing regarding the
19 alleged misconduct, the hearings panel need not redetermine the
20 underlying facts but may make its determination based solely on
21 review of the records and decision relating to those proceedings and
22 any investigative or summary materials from the administrative law
23 judge, legal counsel, and commission staff. However, the hearings
24 panel may, in its discretion, consider additional evidence to
25 determine whether misconduct occurred. The hearings panel shall, upon
26 written request by the subject peace officer or corrections officer,
27 allow the peace officer or corrections officer to present additional
28 evidence of extenuating circumstances.

29 (5) The commission is authorized to proceed regardless of whether
30 an arbitrator or other appellate decision maker overturns the
31 discipline imposed by the officer's employing agency or whether the
32 agency settles an appeal. No action or failure to act by a law
33 enforcement agency or corrections agency or decision resulting from
34 an appeal of that action precludes action by the commission to
35 suspend or revoke an officer's certificate, to place on probation, or
36 to require remedial training for the officer.

37 (6) The hearings, but not the deliberations of the hearings
38 panel, are open to the public. The transcripts, admitted evidence,
39 and written decisions of the hearings panel on behalf of the

1 commission are not confidential or exempt from public disclosure, and
2 are subject to subpoena and discovery proceedings in civil actions.

3 (7) Summary records of hearing dispositions, revocations obtained
4 via default or surrender, certification denials, and all cases that
5 were resolved with disciplinary action, must be made available on an
6 annual basis on a public website.

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

9 **Sec. 11.** RCW 43.101.400 and 2021 c 323 s 21 are each amended to
10 read as follows:

11 (1) Except as provided under subsection (2) of this section, all
12 files, papers, and other information obtained by the commission as
13 part of (~~(an initial)~~) a background investigation pursuant to RCW
14 43.101.095 (~~((2) and (4))~~) and 35.21.333 are confidential and exempt
15 from public disclosure. Such records are not subject to public
16 disclosure, subpoena, or discovery proceedings in any civil action,
17 except as provided in RCW 43.101.380(6) or which become part of the
18 record in a suspension or decertification (~~(matter)~~) hearing.

19 (2) Records which are otherwise confidential and exempt from
20 public disclosure under subsection (1) of this section may be
21 reviewed and copied: (a) By the officer involved or the officer's
22 counsel or authorized representative, who may review the officer's
23 file after the officer has been served with a statement of charges
24 pursuant to RCW 43.101.155, and may submit any additional exculpatory
25 or explanatory evidence, statements, or other information, any of
26 which must be included in the file; (b) by a duly authorized
27 representative of (i) the agency of termination, or (ii) a current
28 employing law enforcement or corrections agency, which may review and
29 copy its employee-officer's file; or (c) by a representative of or
30 investigator for the commission.

31 (3) Records which are otherwise confidential and exempt from
32 public disclosure under subsection (1) of this section may also be
33 inspected at the offices of the commission by a duly authorized
34 representative of a law enforcement or corrections agency considering
35 an application for employment by a person who is the subject of a
36 record. A copy of records which are otherwise confidential and exempt
37 under subsection (1) of this section may later be obtained by an
38 agency after it hires the applicant. In all other cases under this
39 subsection, the agency may not obtain a copy of the record.

1 (4) The commission shall maintain a database that is publicly
2 searchable, machine readable, and exportable, and accompanied by a
3 complete, plain-language data dictionary describing the names of
4 officers and employing agencies, all conduct investigated,
5 certifications denied, notices and accompanying information provided
6 by law enforcement or correctional agencies, including the reasons
7 for separation from the agency, decertification or suspension actions
8 pursued, and final disposition and the reasons therefor for at least
9 30 years after final disposition of each incident. The dates for each
10 material step of the process must be included. Any decertification
11 must be reported to the national decertification index.

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

16 NEW SECTION. **Sec. 12.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 13.** If specific funding for the purposes of
21 this act, referencing this act by bill or chapter number, is not
22 provided by June 30, 2025, in the omnibus appropriations act, this
23 act is null and void."

24 Correct the title.

EFFECT: • Removes provisions amending the duties of sheriffs and their deputies.

• Removes provisions amending requirements for a person seeking election or appointment as sheriff.

• Removes provisions limiting a sheriff's use of volunteers, requiring policies and regulations to include such limitations and requirements for volunteers and specially commissioned officers, and requiring counties to adopt or amend their laws and ordinances to comply with such limitations and requirements.

• Removes provisions establishing that a vacancy is created in the office of sheriff if the person does not maintain certification, is decertified, or if other requirements are not met.

• Removes requirements for sheriffs and language referencing the election of sheriffs in provisions providing officer certification and background investigation requirements.

• Removes language limiting persons deputed by sheriffs to functions and actions not involving use of law enforcement authority

or carrying of firearms or other weapons unless such persons are certified.

- Restores the statute providing the duty for sheriffs to make complaint of all violations of criminal law, which come to their knowledge, within their jurisdictions.

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