

HOUSE BILL REPORT

HB 1399

As Reported by House Committee On:
Community Safety

Title: An act relating to modernizing, harmonizing, and clarifying laws concerning sheriffs, chiefs, marshals, and police matrons.

Brief Description: Modernizing, harmonizing, and clarifying laws concerning sheriffs, chiefs, marshals, and police matrons.

Sponsors: Representatives Goodman, Fitzgibbon, Reed, Doglio and Ormsby.

Brief History:

Committee Activity:

Community Safety: 1/27/25, 2/6/25 [DPS].

Brief Summary of Substitute Bill

- Provides eligibility and background investigation requirements for sheriffs, police chiefs, and marshals.
- Amends the duties of sheriffs and their deputies.
- Limits the use of volunteers and specially commissioned officers.
- Makes other changes to the Criminal Justice Training Commission certification and certification denial, suspension, or revocation procedures.
- Repeals the chapter relating to police matrons.

HOUSE COMMITTEE ON COMMUNITY SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Goodman, Chair; Simmons, Vice Chair; Davis, Farivar, Fosse and Obras.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 3 members: Representatives Graham, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Burnett.

Staff: Lena Langer (786-7192).

Background:

Criminal Justice Training Commission.

The Criminal Justice Training Commission (CJTC) establishes the standards and process to certify peace officers and other law enforcement personnel. It also provides training and educational programs, including the Basic Law Enforcement Academy and specialized training.

Law Enforcement Personnel and Peace Officers.

Law enforcement personnel include any general authority peace officers. A general authority peace officer is a fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce state criminal laws generally. For CJTC purposes, a peace officer has the same meaning as a general authority peace officer. A peace officer includes Washington State Patrol (WSP) commissioned officers and Washington Department of Fish and Wildlife officers with enforcement powers for criminal laws. A reserve officer is not employed regularly as a peace officer, but may be called by an agency into active service to enforce criminal laws.

Police Chiefs and Marshals.

A city or town may provide law enforcement protection in a number of different ways. The most common way is to establish a municipal police department under the direction of a locally appointed police chief or marshal.

To be eligible for appointment to the office of chief of police or marshal of a city or town with a population of more than 1,000, a person must:

- be a United States citizen;
- have a high school diploma or equivalent certificate;
- have not been convicted of a felony;
- have not been convicted of a gross misdemeanor or crime involving moral turpitude within five years of application;
- have received at least a general discharge under honorable conditions for any military service;
- have at least two years of regular, full-time commissioned law enforcement employment with a government law enforcement agency; and
- have obtained peace officer certification.

A person seeking appointment to the office of chief of police or marshal of a city or town with a population of 1,000 or less must meet the same eligibility requirements, except that person is not required to have at least two years of regular, full-time commissioned law

enforcement employment, and has nine months to obtain peace officer certification after appointment.

Prior to appointment to the office of chief of police or marshal, the appointing agency must complete a background investigation of the candidate.

The police department in a second-class city, which has a population of over 1,500 at the time of organization or reorganization, is under the direction of the police chief. In such cities, the police chief may require aid from citizens for the arrest of persons and maintenance of public order.

A town police department is under the direction of the marshal. The marshal may appoint additional police officers for one day when necessary for the preservation of public order.

Sheriffs.

The sheriff is the chief executive officer and conservator of the peace of the county. Elected sheriffs must obtain certification from the CJTC within 12 months of assuming office.

The duties of the sheriff and the sheriff's deputies are to:

- arrest and commit to prison all persons who break or attempt to break the peace, and all persons guilty of public offenses;
- defend the county against those who, by riot or otherwise, endanger the public peace or safety;
- execute the process and orders of the courts of justice or judicial officers;
- execute all warrants delivered for that purpose by other public officers, when delivered for that purpose;
- attend the sessions of the courts of record held within the county, and obey their lawful orders or directions;
- keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots, unlawful assemblies, and insurrections; and
- make complaint of all criminal law violations, which come to their knowledge, within their respective jurisdictions.

In keeping the peace, in the service of process, and in apprehending or securing persons, sheriffs and their deputies may call to their aid such persons or power of their county as they deem necessary.

Background Investigations for Peace Officers.

Any peace officer or corrections officer applicant who has a conditional employment offer must submit to a background investigation. The background investigation must include:

- a criminal history and misconduct check;
- an inquiry with local prosecutors regarding impeachment disclosure;
- an inquiry into affiliation with extremist organizations;

- a review of social media accounts;
- a verification of citizenship, lawful permanent resident status, or whether the person is a Deferred Action for Childhood Arrivals recipient;
- a psychological examination; and
- a polygraph or similar assessment.

Employing agencies must verify in writing to the CJTC that they have complied with all background investigation requirements prior to making any nonconditional offer of employment.

Summary of Substitute Bill:

Police Chiefs and Marshals.

Eligibility criteria for appointment to the office of chief of police or marshal are amended, so that the same eligibility requirements apply for any city or town regardless of size or class, and the person must meet the requirements to maintain eligibility while in office. New or amended criteria for appointment to the office of chief of police or marshal provide that the person must:

- be age 25 or older at the time of election or appointment;
- have not been convicted under foreign law of the equivalent to a felony;
- have not been convicted of a gross misdemeanor involving moral turpitude, dishonesty, fraud, or corruption at any time, rather than any crime involving moral turpitude within five years of application;
- have not engaged in conduct meeting the criteria requiring denial or revocation of certification;
- have at least two years of regular, full-time law enforcement agency employment with a government law enforcement agency, rather than two years of full-time commissioned law enforcement employment;
- have obtained certification within 12 months of assuming office, unless extended by the CJTC, and maintained certification; and
- if not yet certified, have met the CJTC background investigation requirements for peace officers and corrections officers, and if certified, have met background investigation requirements, within six months prior to the date of appointment, confirming that the person meets the eligibility requirements and suitability standards.

Eligibility criteria regarding discharge from military service, a high school diploma or equivalent certificate, and citizenship are unchanged.

The appointing authority is responsible for any fees associated with the background investigation to confirm that the person is eligible and meets suitability standards. Before making an appointment to the office of chief of police or marshal, the appointing authority must attest that the eligibility requirements have been met, and that the person passed the

background investigation.

Persons holding the office of police chief or marshal at the time of the act's effective date are not required to meet background investigation requirements unless they seek appointment to a different office. The appointment of the chief of police or marshal is terminated, and a vacancy created, if the appointee does not maintain certification, is decertified, or other eligibility requirements are not maintained. If there is a vacancy, the city or town must appoint a replacement to fill the office. The person appointed to replace must meet the eligibility requirements.

Sheriffs.

A person filing for candidacy for the office of sheriff, or seeking appointment to the same, must meet the same eligibility requirements for appointment to the office of chief of police or marshal.

As with persons seeking appointment to the office of chief of police or marshal, if a person is not yet certified, the person must meet the CJTC background investigation requirements for peace officers and corrections officers. If certified, the person must meet background investigation requirements, within six months prior to the date of appointment to the office of sheriff, confirming that the person meets the eligibility requirements and suitability for employment standards.

Electoral candidates for sheriff must, within six months of the deadline to file as a candidate, pass the background investigation required by the CJTC. The WSP must conduct the background investigation. The person filing for candidacy must submit a background investigation request to the WSP at least two months before the filing deadline. The WSP must submit the completed background investigation to the CJTC for verification that the background investigation complies with requirements at least 45 days before the filing deadline. If the CJTC determines additional background information must be gathered, the CJTC must request that the WSP conduct an additional investigation and the WSP must resubmit the completed investigation to the CJTC for verification. Once the CJTC completes its verification that the background investigation requirements have or have not been met, the CJTC must notify the WSP and the candidate. The CJTC must post on its website a list of all candidates for sheriff who have passed the required background investigation.

A person seeking election or appointment to the office of sheriff must provide a sworn statement under penalty of perjury to the WSP or to the appointing authority stating that the person meets the requirements, and the WSP or the appointing authority must attest that the requirements have been met. Persons holding the office of sheriff at the time of the act's effective date are not required to meet background investigation requirements unless they seek election or appointment to a different office.

A vacancy in the office of sheriff is created if the incumbent does not maintain certification,

is decertified, or other eligibility requirements are not maintained. If there is a vacancy in a partisan elective office, the county legislative authority must appoint a replacement. If there is a vacancy in a nonpartisan elective office, the county executive or the county legislative authority must appoint a replacement. If there is a vacancy in an appointed position, the appointing county authority must appoint a replacement. The person appointed to fill the vacancy must meet the eligibility requirements.

The duties of the sheriff and the sheriff's deputies are amended. In addition to other current duties that remain unchanged, the sheriff and the sheriff's deputies must:

- enforce the Washington Constitution and laws, as interpreted and applied by the state Supreme Court;
- be authorized to make complaint of all criminal law violations which come to their knowledge, and to arrest and commit to jail, rather than prison, persons who break the peace;
- attend, when appropriate, the sessions of the courts of record held within the county, and obey lawful judicial orders or directions; and
- keep and preserve the peace, and are authorized to work in collaboration with other law enforcement agencies to: help quiet and suppress affrays, riots, unlawful assemblies, and insurrections, effect the service of process in civil or criminal cases, and apprehend and secure any person for felony or breach of the peace.

The sheriff and the sheriff's deputies may call to their aid volunteers and specially commissioned officers, rather than persons or power of their county as they deem necessary.

Volunteers and Specially Commissioned Officers.

With the exceptions of reserve officers and volunteers and specially commissioned officers who are certified, law enforcement agencies or sheriffs that use volunteers or specially commissioned officers to assist in their work may not permit the volunteers or specially commissioned officers to engage in functions or actions requiring the use of law enforcement authority, carrying of or use of firearms or other weapons, or use of dogs to track people or animals other than for purposes of search and rescue. Law enforcement agencies and sheriffs may utilize volunteers or specially commissioned officers to assist with roles including:

- helping with search and rescue;
- serving as faith leaders;
- helping with traffic management that does not include authority to enforce criminal laws; and
- caring for domestic animals.

The agency's policies and regulations must provide the limitations on authority and the required supervision of volunteers and specially commissioned officers. Volunteers and specially commissioned officers must be clearly identifiable by the public as distinguishable from peace officers, and if they are provided badges or other identifying insignia, such

identification must be officially issued by the agency and used only while on duty.

Criminal Justice Training Commission Certification and Background Investigations.

The CJTC must prioritize the access of sheriffs, chiefs, and marshals to any CJTC training required for certification.

Background investigation requirements apply to appointing authorities as well as employing agencies. The required background investigation for all peace officers and corrections officers must be completed within six months prior to employment, election, or appointment. Applicants determined by the background investigation to have engaged in conduct meeting mandatory decertification criteria must be considered unsuitable for election or employment as a peace officer. The required payment for psychological examinations or polygraph or similar tests is eliminated.

Law enforcement or correctional agencies that previously employed or received an application from an applicant must disclose employment or application information within 30 days of receiving a written request from the employing agency conducting the background investigation. This disclosure must include any information regarding the candidate's application to that agency, and other information obtained during the background investigation, in addition to the reason for the officer's separation from the agency. Officers must indicate any prior application materials and any background investigation conducted while seeking employment with other law enforcement agencies, including where the applicant began but did not complete a full background investigation. Applicants must provide law enforcement agencies to which they are applying a document authorizing each prior agency to which the applicant has applied to release information relating to the applicant's application for employment, in addition to authorizing each prior employer to release information relating to the applicant's employment.

Every individual, legal entity, and agency of federal, state, or local government is immune from civil liability for providing information regarding applicants to the CJTC, employing agencies, potential employing agencies, or appointing authorities in good faith.

All files, papers, and other information obtained as part of the background investigation are confidential and exempt from public disclosure. The verification by the CJTC that the background investigation has been completed and passed is a public record. The CJTC must retain the background investigation files.

By June 30, 2026, the CJTC must issue guidelines with criteria for counties, cities, agencies, and the CJTC to apply in determining whether an applicant is suitable for employment. To assist in developing these guidelines, the CJTC must seek input from individuals who have experience in conducting or reviewing law enforcement background investigations, and others, which may include:

- chiefs, sheriffs, law enforcement agency human resource staff, legal counsel, or others from law enforcement agencies or city, county, or state human resources

- departments;
- individuals who have served as polygraph examiners or psychologists for law enforcement background investigations;
- individuals who serve in or have served in law enforcement accountability oversight roles;
- representatives from the Washington Association of Sheriffs and Police Chiefs (WASPC), the WSP, the Washington Fraternal Order of Police, the Washington Council of Police and Sheriffs, and a union representing the interests of peace officers and corrections officers; and
- community representatives, including a community member from Eastern Washington.

The guidelines must include criteria that must result in mandatory disqualification, as well as criteria that may result in disqualification, including grounds for denial, suspension, or revocation of certification in a discretionary determination.

The CJTC must include summary records of certification revocations obtained via default or surrender, certification denials, and all cases that were resolved with disciplinary action, in addition to hearing dispositions, annually on its website.

An officer's records, kept by the CJTC, which are otherwise confidential and exempt from public disclosure, may be reviewed and copied by the officer or the officer's counsel only after the officer has been served with a statement of charges for certification denial, suspension, or revocation.

Police Matrons and Constables.

The chapter relating to police matrons is repealed. A reference to constables in a provision of law pertaining to marshals is removed.

Substitute Bill Compared to Original Bill:

The substitute bill:

- provides a nonexhaustive list of roles that volunteers and specially commissioned officers who are not certified may perform for law enforcement agencies and sheriffs, including helping with search and rescue, serving as faith leaders, helping with traffic management that does not include authority to enforce criminal laws, and caring for domestic animals;
- removes new language added in the original bill requiring a sheriff to enforce the United States Constitution and laws, but retains language requiring a sheriff to enforce the Washington Constitution and laws, as interpreted and applied by the state Supreme Court;
- requires a person filing for candidacy for sheriff to submit a background investigation request to the Washington State Patrol at least two months, rather than three months, before the filing deadline, when such a background investigation is required;

- provides that applicants who are determined by the background investigation to have engaged in conduct that meets mandatory decertification criteria must be considered unsuitable for election or for employment as a peace officer;
- requires the CJTC to issue, by June 30, 2026, guidelines with criteria for counties, cities, agencies, and the CJTC to apply in determining whether an applicant is suitable for employment, rather than requiring the CJTC to adopt rules for the same purpose;
- provides that every individual, legal entity, and agency of federal, state, or local government is immune from civil liability for providing information regarding applicants to the CJTC, employing agencies, potential employing agencies, or appointing authorities in good faith;
- requires applicants to provide law enforcement agencies to which they are applying a document authorizing each prior agency to which the applicant has applied to release information relating to the applicant's application for employment, in addition to authorizing each prior employer to release information relating to the applicant's employment; and
- removes reference to constables in a provision of law pertaining to marshals.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on February 6, 2025.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Sheriffs and police chiefs should be subject to the same requirements for eligibility, training, and certification as the officers that work for them. Under the bill, the same requirements would apply to both elected and appointed sheriffs, and chiefs, regardless of the size of the town, city, or county. The bill provides that if a law enforcement executive is decertified, a vacancy is created in the office. The bill updates the requirements for law enforcement leaders and makes sure the requirements apply equally across the board. These requirements ensure that the public will trust and not fear law enforcement officers. This bill makes sure that all people are protected, regardless of their immigration status. Updating the duties of sheriffs, as they are updated in the bill, is important, and including language that the sheriffs must enforce the state Constitution and laws is paramount. The bill strengthens and aligns standards regardless of where you live, whether you have a police chief or sheriff, elected or not. The bill requires persons to obtain certification to stay in office. This bill increases public trust in law enforcement and government. Public trust in government fosters public safety. It is important that people needing law enforcement aid will have confidence that the law enforcement will show up

and enforce state laws.

This is a good government bill that state residents deserve. There is support for the changes made in the bill to volunteers and specially commissioned officers, so that they are not involved in actions that are reserved for those with law enforcement authority. Law enforcement leaders have a critical role in setting the example for other officers. Eligibility standards should be updated for police chiefs and marshals, and these should apply to sheriffs as well. Professional standards for law enforcement leaders should be modernized and strengthened. This approach is valued by a wide range of communities. This bill builds on the work done over the years in the Legislature. The same accountability standards that apply to peace officers that work under the chiefs, marshals, and sheriffs should apply to the law enforcement leaders. There should be consequences when leadership falls short, or when unqualified individuals act beyond their training, whether through excessive force, mismanagement, or breach of trust.

There is strong support for the bill's limitations on the roles of volunteers to not be engaged in law enforcement action, because that current practice erodes community safety and public trust. Volunteers are regularly put into positions where they are expected to exercise police power. This has created more fear and distrust of local law enforcement in communities. This also creates enormous liability for counties. The bill will limit this activity and ensure that everyone feels safer. Volunteers can be helpful, but they should not be armed. Uncertified volunteers should not conduct hound pursuits. There should be an amendment to the bill to put wildlife management in the hands of trained and certified people. There is a failure in policing. There is suffering on both sides of the badge. Two worlds must come together, police officers and the people they serve. There is a need to change the culture of policing. There is a county sheriff that is using uncertified volunteers for posse hound hunts, is violating wildlife protection laws, and putting the county at risk of bankruptcy. Sheriffs and their posse hound hunts are undermining the state's wildlife laws. These posse hound hunts go against state law and against state wildlife specialists.

(Opposed) There is extreme opposition to the bill. The bill provisions concerning volunteers and specially commissioned officers should be removed. At least two provisions of this bill are unconstitutional. Requiring a state agency to determine whether someone is suitable to go onto the ballot for election is unconstitutional, as is the provision that requires that someone be removed from elected office because a state agency is not satisfied with their performance. The proponents of the bill should object to its contents, particularly in section 7, which requires sheriffs and their deputies to enforce the United States Constitution and the laws of the United States, and the Washington Constitution and state laws. The Legislature passed, with the agreement of WASPC, just a few years ago, an explicit act to prevent sheriffs from enforcing immigration laws, but this provision would require it. Under this bill, there is a question of whether sheriffs and police chiefs work for the counties or cities that they were elected or appointed for, or whether they work for the state. The Legislature may prescribe only the duties of sheriffs and other constitutional officers. The bill provisions that require a person to meet certain qualifications before the

person can be on the ballot for election are a problem, because the people are in charge in elections.

(Other) There are concerns about the sections in the bill pertaining to volunteers. Volunteers play an important role in the community, and help with parking enforcement, traffic control, and so forth. This is cost-saving for many departments. There is concern about the language in the bill that possibly prohibits these activities. Leadership in law enforcement is critical. There is a need for expertise and experience in these roles. There is support for requiring sheriffs, police chiefs, and marshals to meet the same certification and decertification standards as other officers. The bill changes the requirement for police chiefs and marshals to have two years of full-time commissioned law enforcement experience, and there is a request to make that five years of experience.

Persons Testifying: (In support) Representative Roger Goodman, prime sponsor; Juan Peralez, Unidos of Snohomish County; Juan Peralez, Unidos of Snohomish County; Patricia L Arnold, Friends of the White Salmon River; Josh Parker, Policing Project @ New York University School of Law; Lynn Mason, Coexisting with Cougars in Klickitat County; Josh Rosenau, Mountain Lion Foundation; Courtney Normand, Planned Parenthood Alliance Advocates; Malou Chavez, Northwest Immigrant Rights Project; Ryan Disch-Guzman, Washington Alliance for Gun Responsibility; Heather Kelly, League of Women Voters; Lyle Quasim, Tacoma Pierce County Black Collective; Elizabeth Hendren, Sexual Violence Law Center; Leslie Cushman, Washington Coalition for Police Accountability; Kristin Ang, Faith Action Network; Eliana Machefsky, National Lawyers Guild Police Accountability Project; and Michelle Nijhuis.

(Opposed) James McMahan, WA Assoc Sheriffs and Police Chiefs; and Donald Brockett.

(Other) Candice Bock, Association of Washington Cities; and Jeff DeVere, WACOPS - Washington Council of Police and Sheriffs.

Persons Signed In To Testify But Not Testifying: Susan Kane-Ronning, Washington Sierra Club Wildlife Committee; Gabrielle Gilbert; Rachel Haymon; Melissa Brinks; and Barbara Geiger.