
SUBSTITUTE HOUSE BILL 1399

State of Washington

69th Legislature

2025 Regular Session

By House Community Safety (originally sponsored by Representatives Goodman, Fitzgibbon, Reed, Doglio, and Ormsby)

READ FIRST TIME 02/10/25.

1 AN ACT Relating to modernizing, harmonizing, and clarifying laws
2 concerning sheriffs, chiefs, marshals, and police matrons; amending
3 RCW 35.21.333, 35.21.334, 35.23.161, 35.27.240, 36.28.010, 36.28.025,
4 43.101.095, 10.93.170, 36.28.020, 43.101.380, and 43.101.400; adding
5 a new section to chapter 35.21 RCW; adding a new section to chapter
6 36.28 RCW; creating a new section; and repealing RCW 35.66.010,
7 35.66.020, 35.66.030, 35.66.040, 35.66.050, and 36.28.011.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that specific laws
10 governing the eligibility requirements, duties, and responsibilities
11 of sheriffs, police chiefs, and marshals should be updated and
12 revised to reflect current best practices, and to ensure that local
13 law enforcement executives, whether sheriffs, police chiefs, or
14 marshals, whether appointed or elected, or whether partisan or
15 nonpartisan, are subject to the same requirements and standards. By
16 establishing such consistent requirements and standards, the
17 legislature intends to enhance the effectiveness, professionalism,
18 and accountability of law enforcement executives, to promote public
19 trust and confidence in law enforcement, and to increase community
20 safety.

1 Because all those who serve in law enforcement must maintain
2 their peace officer certification, the legislature finds that state
3 law should be clear regarding actions taken when a sheriff, police
4 chief, or marshal has their certification revoked, to ensure that
5 state law reflects consistent principles of strong accountability for
6 all ranks.

7 The legislature finds further that specially commissioned
8 officers and volunteers, if retained by local law enforcement
9 executives to assist with agency needs, should be limited to roles
10 that do not involve taking law enforcement actions, including the
11 carrying of firearms or other weapons, the detention and arrest of
12 others, and the use of force and deadly force, unless the person has
13 completed peace officer training and certification requirements, and
14 that law enforcement agencies must have policies circumscribing
15 limitations on use of uniforms and badges, and the permissible roles
16 for volunteers, which may include roles such as helping with search
17 and rescue, serving as faith leaders, caring for domestic animals,
18 and helping with traffic management that does not include authority
19 to enforce criminal laws, and may not include use of dogs to track
20 people or animals other than for search and rescue.

21 The legislature also intends to clarify and reinforce state law
22 establishing that the core duty of sheriffs is to enforce the
23 Washington state Constitution and laws, as enacted by the legislature
24 and interpreted by the Washington supreme court, which is in
25 alignment with the Washington supreme court's ruling in *In re Recall*
26 *of Fortney*, 196 Wn.2d 766 (2021).

27 The legislature further finds that antiquated laws regarding
28 "police matrons" should be repealed.

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

31 (1) A person seeking appointment to the office of chief of police
32 or marshal (~~(, of a city or town, including a code city, with a~~
33 ~~population in excess of one thousand)) in any city or town, is
34 ~~((ineligible unless)) eligible for appointment and for remaining in~~
35 that office if that person:~~

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

37 (b) Is at least 25 years old;

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

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

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

9 ~~((e))~~ (f) Has not engaged in conduct meeting the criteria
10 requiring denial or revocation of certification set forth in RCW
11 43.101.105(2);

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

15 ~~((f))~~ (h) Has completed at least two years of regular,
16 uninterrupted, full-time ~~((commissioned))~~ law enforcement agency
17 employment involving enforcement responsibilities with a government
18 law enforcement agency; ~~((and~~

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

22 (i) Within 12 months of assuming office, unless otherwise
23 extended by the criminal justice training commission, has obtained
24 certification and maintains certification as required under chapter
25 43.101 RCW and the rules of the commission; and

26 (j) Except as provided in subsection (3) of this section, if not
27 yet certified, has met the background investigation requirements
28 under RCW 43.101.095, and if certified, has met the background
29 investigation requirements that confirm that the person is eligible
30 under this subsection.

31 (i) The background investigation must be completed by the
32 appointing authority no earlier than six months prior to the date of
33 appointment. The appointing authority must submit verification to the
34 criminal justice training commission that the applicant meets the
35 eligibility criteria, has complied with all applicable standards and
36 was not determined by the background investigation and commission
37 rules to be unsuitable for employment by a law enforcement agency or
38 to serve in the office of chief of police or marshal. Such
39 verification is a public record.

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

3 ~~(2) ((A person seeking appointment to the office of chief of~~
4 ~~police or marshal, of a city or town, including a code city, with a~~
5 ~~population of one thousand or less, is ineligible unless that person~~
6 ~~conforms with the requirements of subsection (1) (a) through (e) of~~
7 ~~this section. A person so appointed as chief of police or marshal~~
8 ~~must successfully complete the state's basic training requirement or~~
9 ~~equivalency within nine months after such appointment, unless an~~
10 ~~extension has been granted by the criminal justice training~~
11 ~~commission.~~

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

16 (3) The background investigation requirements of this section do
17 not apply to any person who is holding the office of chief of police
18 or marshal as of the effective date of this section, unless the
19 person seeks appointment to a different office of chief of police or
20 marshal.

21 (4) For the purposes of this section, "government law enforcement
22 agency" means a general authority Washington law enforcement agency
23 or a limited authority Washington law enforcement agency as defined
24 in RCW 10.93.020, or a state or federal governmental agency that is
25 authorized by law to engage in or supervise the prevention,
26 detection, investigation, or prosecution of, or the incarceration of
27 any person for, any violation of law.

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

30 (1) Before making an appointment ((in)) to the office of chief of
31 police or marshal in any city or town, the appointing ((agency shall
32 complete a thorough background investigation of the candidate))
33 authority must attest as part of the public record of appointment
34 that the requirements of RCW 35.21.333 have been met. ((The
35 Washington association of sheriffs and police chiefs shall develop
36 advisory procedures which may be used by the appointing authority in
37 completing its background investigation of candidates for the office
38 of chief of police or marshal))

1 (2) Such appointment shall be terminated, and a vacancy created,
2 if the chief of police's or marshal's certification is not maintained
3 as required, if the chief of police or marshal is disqualified from
4 serving as a law enforcement officer because of decertification under
5 chapter 43.101 RCW, or if the other requirements of RCW 35.21.333 are
6 determined to have not been met, or to have not been complied with
7 while in office. The appointing city or town authority shall appoint
8 a replacement to fill the office. The person appointed must meet the
9 requirements of RCW 35.21.333.

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

12 The department of police in a city of the second class shall be
13 under the direction and control of the chief of police subject to the
14 direction of the mayor. The city and chief must comply with the
15 requirements set forth in RCW 35.21.333 and 35.21.334. Any police
16 officer may pursue and arrest violators of city ordinances beyond the
17 city limits.

18 ~~((Every citizen shall lend the police chief aid, when required,~~
19 ~~for the arrest of offenders and maintenance of public order. With the~~
20 ~~concurrence of the mayor, the police chief may appoint additional~~
21 ~~police officers to serve for one day only under orders of the chief~~
22 ~~in the preservation of public order.)) The department must comply
23 with the requirements set forth in section 6 of this act regarding
24 use of volunteers and specially commissioned officers.~~

25 The police chief shall have the same authority as that conferred
26 upon sheriffs for the suppression of any riot, public tumult,
27 disturbance of the peace, or resistance against the laws or the
28 public authorities in the lawful exercise of their functions and
29 shall be entitled to the same protection.

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

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

34 The department of police in a town shall be under the direction
35 and control of the marshal subject to the direction of the mayor. The
36 town and marshal must comply with the requirements set forth in RCW
37 35.21.333 and 35.21.334. He or she may pursue and arrest violators of
38 town ordinances beyond the town limits.

1 The marshal's lawful orders shall be promptly executed by
2 deputies ~~((r))~~ and police officers ~~((and watchpersons. Every citizen
3 shall lend him or her aid, when required, for the arrest of offenders
4 and maintenance of public order))~~. He or she may appoint, subject to
5 the approval of the mayor, one or more deputies, for whose acts he
6 and his or her bondspersons shall be responsible, whose compensation
7 shall be fixed by the council. ~~((With the concurrence of the mayor,
8 the marshal may appoint additional police officers for one day only
9 when necessary for the preservation of public order))~~ The department
10 must comply with the requirements set forth in section 6 of this act
11 regarding use of volunteers and specially commissioned officers.

12 The marshal shall have the same authority as that conferred upon
13 sheriffs for the suppression of any riot, public tumult, disturbance
14 of the peace, or resistance against the laws or public authorities in
15 the lawful exercise of their functions and shall be entitled to the
16 same protection.

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

22 NEW SECTION. Sec. 6. A new section is added to chapter 35.21
23 RCW to read as follows:

24 (1) With the exceptions of reserve officers as defined in RCW
25 10.93.020 and those volunteers and specially commissioned officers
26 who are certified under chapter 43.101 RCW, any law enforcement
27 agency in any city or town that uses volunteers or specially
28 commissioned officers to assist in the work of its law enforcement
29 agency may not permit these volunteers or specially commissioned
30 officers to engage in functions or actions requiring the use of law
31 enforcement authority, carrying of or use of firearms or other
32 weapons, or use of dogs to track people or animals other than for
33 purposes of search and rescue. A law enforcement agency in a city or
34 town may utilize volunteers or specially commissioned officers to
35 assist with roles including but not limited to helping with search
36 and rescue, serving as faith leaders, helping with traffic management
37 that does not include authority to enforce criminal laws, and caring
38 for domestic animals.

1 (2) Limitations on authority and the required supervision of
2 volunteers and specially commissioned officers must be set forth in
3 that agency's policies and regulations. Agency policies and
4 regulations shall also include requirements that volunteers and
5 specially commissioned officers must be clearly identifiable by the
6 public as distinguishable from peace officers, and that if they are
7 provided badges or other identifying insignia, such identification
8 shall be officially issued by the agency and used only while on duty
9 in this role.

10 **Sec. 7.** RCW 36.28.010 and 2009 c 549 s 4050 are each amended to
11 read as follows:

12 The sheriff is the chief executive officer and conservator of the
13 peace of the county. In the execution of ~~((his or her))~~ the office,
14 ~~((he or she and his or her))~~ the sheriff and the sheriff's deputies:

15 (1) Shall enforce the Constitution and laws of the state of
16 Washington, as interpreted and applied by the state supreme court;

17 (2) Shall be authorized to make complaint of all violations of
18 the criminal law, which shall come to their knowledge, and arrest and
19 commit to ~~((prison))~~ jail all persons who break the peace, or attempt
20 to break it, and all persons guilty of public offenses;

21 ~~((+2))~~ (3) Shall defend the county against those who, by riot or
22 otherwise, endanger the public peace or safety;

23 ~~((+3))~~ (4) Shall execute the process and orders of the courts of
24 justice or judicial officers, when delivered for that purpose,
25 according to law;

26 ~~((+4))~~ (5) Shall execute all warrants delivered for that purpose
27 by other public officers, according to the provisions of particular
28 statutes;

29 ~~((+5))~~ (6) Shall attend, when appropriate, the sessions of the
30 courts of record held within the county, and obey ~~((their))~~ lawful
31 judicial orders or directions;

32 ~~((+6))~~ (7) Shall keep and preserve the peace in their respective
33 counties, and are authorized to work in collaboration with other law
34 enforcement agencies to help quiet and suppress all affrays, riots,
35 unlawful assemblies and insurrections, ~~((for which purpose, and for))~~
36 effect the service of process in civil or criminal cases, and ~~((in~~
37 ~~apprehending or securing))~~ apprehend and secure any person for felony
38 or breach of the peace ~~((, they may))~~ ;

1 (8) (a) May call to their aid ((such persons, or power of their
2 county as they may deem necessary)) volunteers or specially
3 commissioned officers. With the exceptions of reserve officers as
4 defined in RCW 10.93.020 and those volunteers and specially
5 commissioned officers who are certified under chapter 43.101 RCW, any
6 sheriff in any county that uses volunteers or specially commissioned
7 officers to assist in the sheriff's work may not permit these
8 volunteers or specially commissioned officers to engage in functions
9 or actions requiring the use of law enforcement authority, carrying
10 of or use of firearms or other weapons, or use of dogs to track
11 people or animals other than for purposes of search and rescue. A
12 sheriff may utilize volunteers or specially commissioned officers to
13 assist with roles including but not limited to helping with search
14 and rescue, serving as faith leaders, helping with traffic management
15 that does not include authority to enforce criminal laws, and caring
16 for domestic animals.

17 (b) Limitations on authority and the required supervision of
18 volunteers and specially commissioned officers must be set forth in
19 that agency's policies and regulations. Agency policies and
20 regulations shall also include requirements that volunteers and
21 specially commissioned officers must be clearly identifiable by the
22 public as distinguishable from peace officers, and if they are
23 provided badges or other identifying insignia, such identification
24 shall be officially issued by the agency and used only while on duty
25 in this role.

26 **Sec. 8.** RCW 36.28.025 and 1979 ex.s. c 153 s 6 are each amended
27 to read as follows:

28 ~~((A person who files a declaration of candidacy for the office of~~
29 ~~sheriff after September 1, 1979, shall have, within twelve months of~~
30 ~~assuming office, a certificate of completion of a basic law~~
31 ~~enforcement training program which complies with standards adopted by~~
32 ~~the criminal justice training commission pursuant to RCW 43.101.080~~
33 ~~and 43.101.160.~~

34 ~~This requirement does not apply to persons holding the office of~~
35 ~~sheriff in any county on September 1, 1979)) (1) A person filing for~~
36 candidacy for the office of sheriff, or seeking appointment to the
37 office of sheriff, is eligible for holding or remaining in that
38 office if that person:

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

1 (b) Is at least 25 years old;
2 (c) Has obtained a high school diploma or high school equivalency
3 certificate as provided in RCW 28B.50.536;
4 (d) Has not been convicted under the laws of this state, another
5 state, United States law, or foreign law, of a felony;
6 (e) Has not been convicted under the laws of this state, another
7 state, the United States, or foreign law, of a gross misdemeanor
8 involving moral turpitude, dishonesty, fraud, or corruption;
9 (f) Has not engaged in conduct meeting the criteria requiring
10 denial or revocation of certification set forth in RCW 43.101.105(2);
11 (g) Has received at least a general discharge under honorable
12 conditions from any branch of the armed services for any military
13 service if the person was in the military service;
14 (h) Has completed at least two years of regular, uninterrupted,
15 full-time law enforcement agency employment involving enforcement
16 responsibilities with a government law enforcement agency;
17 (i) Within 12 months of assuming office, unless otherwise
18 extended by the criminal justice training commission, has obtained
19 certification and maintains certification as required under chapter
20 43.101 RCW and the rules of the commission; and
21 (j) Except as provided in subsection (4) of this section, if not
22 yet certified, has met the background investigation requirements
23 under RCW 43.101.095. If certified, has completed a background
24 investigation that confirms that the person is eligible under this
25 section.
26 (i) If a person is filing for candidacy for the office of
27 sheriff, the Washington state patrol must conduct the background
28 investigation and submit the completed background investigation to
29 the criminal justice training commission for verification that it
30 complies with the requirements of this section at least 45 days
31 before the deadline for filing for election. If the commission
32 determines additional background information must be gathered to
33 fulfill the statutory requirements, the commission shall request the
34 state patrol conduct the necessary additional investigation and the
35 state patrol shall resubmit the completed investigation to the
36 commission for verification. Once the commission completes its
37 verification that the background investigation requirements have or
38 have not been met, the commission shall notify the state patrol and
39 the candidate. The commission shall also at the same time post on
40 their public website maintained under RCW 43.101.400(4) a list of all

1 candidates for sheriff who have passed the required background
2 investigation so that the public and election officials may readily
3 ascertain whether any candidate filing for office has not met the
4 required eligibility criteria and is thus not eligible to be on the
5 ballot.

6 (ii) The person filing for candidacy must submit a background
7 investigation request to the Washington state patrol at least two
8 months before the deadline to file for election so that there is
9 sufficient time for the state patrol and the criminal justice
10 training commission to conduct the investigation and verification
11 process.

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

21 (iv) The Washington state patrol is responsible for any fees
22 associated with the background investigation for any person seeking
23 election to the office of sheriff. The appointing authority is
24 responsible for any fees associated with the background investigation
25 for any person being appointed to the office of sheriff.

26 (2) A person seeking election or appointment to the office of
27 sheriff must provide a sworn statement under penalty of perjury to
28 the state patrol or to the appointing authority stating that the
29 person meets the requirements of this section, and the state patrol
30 or appointing authority must attest as part of the public record that
31 the requirements of this section have been met.

32 (3) For the purposes of this section, "government law enforcement
33 agency" means a general authority Washington law enforcement agency
34 or a limited authority Washington law enforcement agency as defined
35 in RCW 10.93.020, or a state or federal governmental agency that is
36 authorized by law to engage in or supervise the prevention,
37 detection, investigation, or prosecution of, or the incarceration of
38 any person for, any violation of law.

39 (4) The background investigation requirements of this section do
40 not apply to any person who is holding the office of sheriff as of

1 the effective date of this section, unless the person seeks election
2 or appointment to a different office of sheriff.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 36.28
4 RCW to read as follows:

5 (1) In addition to the causes for vacancy of elective office set
6 forth in RCW 42.12.010, a vacancy in the office of sheriff is created
7 if the incumbent does not maintain certification as required under
8 chapter 43.101 RCW, is disqualified from serving as a law enforcement
9 officer because of decertification under chapter 43.101 RCW, or if
10 the other requirements of RCW 36.28.025 are determined to have not
11 been met or to have been violated while in office. When a vacancy has
12 been created, if it is a partisan elective office, the county
13 legislative authority of that county shall appoint a replacement to
14 fill the office. If it is a nonpartisan elective office, the county
15 executive or the county legislative authority of that county shall
16 appoint a replacement to fill the office. The person appointed must
17 meet the requirements of RCW 36.28.025.

18 (2) Where the office of sheriff is an appointed position, such
19 appointment is terminated, and a vacancy created, if the incumbent
20 does not maintain certification as required under chapter 43.101 RCW,
21 is disqualified from serving as a law enforcement officer because of
22 decertification under chapter 43.101 RCW, or if the other
23 requirements of RCW 36.28.025 are determined to have not been met or
24 to have not been complied with while in office. The appointing county
25 authority shall appoint a replacement to fill the office. The person
26 appointed must meet the requirements of RCW 36.28.025.

27 **Sec. 10.** RCW 43.101.095 and 2024 c 330 s 10 are each amended to
28 read as follows:

29 (1) (a) As a condition of employment, election, or appointment to
30 office, all ~~((Washington))~~ peace officers and all corrections
31 officers are required to obtain certification ~~((as a peace officer or~~
32 ~~corrections officer or exemption therefrom))~~ and maintain
33 certification as required by this chapter and the rules of the
34 commission.

35 (b) To ensure that sheriffs, chiefs, and marshals meet the
36 requirements in RCW 35.21.333 and 36.28.025 to obtain certification
37 within 12 months of assuming office, the commission must prioritize
38 their access to any commission training required for certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (4) As a condition of certification and of a background
6 investigation, a peace officer or corrections officer must ~~((, or))~~:

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

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

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

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

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

36 (7) Prior to certification, or to appointment as a sheriff,
37 chief, or marshal, the employing agency shall ~~((certify))~~ attest to
38 the commission that the agency has received or conducted a completed
39 ~~((the))~~ background ~~((check))~~ investigation, no information has been
40 found that would disqualify the applicant from certification, ~~((and))~~

1 that the applicant ((is)) was determined by the background
2 investigation and under commission rules to be suitable for election
3 or employment as a peace officer ((or)), corrections officer,
4 sheriff, chief, or marshal. Applicants determined by the background
5 investigation to have engaged in conduct meeting the criteria set
6 forth in RCW 43.101.105(2) shall be considered unsuitable for
7 election or for employment as a peace officer. For candidates for the
8 elective office of sheriff, the person filing for office must, by the
9 deadline to file as a candidate, have completed the background
10 investigation required by chapter 36.28 RCW.

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

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

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

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

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

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

38 (iv) Representatives from the Washington association of sheriffs
39 and police chiefs, the Washington state patrol, the Washington
40 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 or election as a sheriff,
18 chief, or marshal.

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

24 **Sec. 11.** RCW 10.93.170 and 2021 c 323 s 30 are each amended to
25 read as follows:

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

1 **Sec. 12.** RCW 36.28.020 and 2009 c 549 s 4051 are each amended to
2 read as follows:

3 Every deputy sheriff shall possess all the power, and may perform
4 any of the duties, prescribed by law to be performed by the sheriff,
5 and shall serve or execute, according to law, all process, writs,
6 precepts, and orders, issued by lawful authority.

7 Persons may also be deputed by the sheriff in writing to do
8 particular acts; including the service of process in civil or
9 criminal cases, and the sheriff shall be responsible on his or her
10 official bond for their default or misconduct. The use of such
11 persons shall be limited to functions and actions not involving use
12 of law enforcement authority or carrying of firearms or other weapons
13 unless such persons are certified under chapter 43.101 RCW.

14 **Sec. 13.** RCW 43.101.380 and 2021 c 323 s 20 are each amended to
15 read as follows:

16 (1) The procedures governing adjudicative proceedings before
17 agencies under chapter 34.05 RCW, the administrative procedure act,
18 govern hearings before the commission and govern all other actions
19 before the commission unless otherwise provided in this chapter. The
20 standard of proof in actions before the commission is a preponderance
21 of the evidence.

22 (2) In all hearings requested under RCW 43.101.155, an
23 administrative law judge appointed under chapter 34.12 RCW shall be
24 the presiding officer, shall make all necessary rulings in the course
25 of the hearing, and shall issue a proposed recommendation, but is not
26 entitled to vote. In addition, a five-member hearings panel shall
27 hear the case and make the commission's final administrative
28 decision.

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

31 (a) When a hearing is requested in relation to a certification
32 action of a Washington peace officer, the commission shall appoint to
33 the panel: (i) One police chief or sheriff from an agency not a
34 current or past employer of the peace officer; (ii) one certified
35 Washington peace officer who is at or below the level of first line
36 supervisor and who has at least ten years' experience as a peace
37 officer; (iii) one civilian member of the commission as appointed
38 under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of
39 the public who is not a prosecutor, defense attorney, judge, or law

1 enforcement officer; and (v) one person with expertise and background
2 in police accountability who is not a current or former peace officer
3 or corrections officer.

4 (b) When a hearing is requested in relation to a certification
5 action of a Washington corrections officer, the commission shall
6 appoint to the panel: (i) A person who heads either a city or county
7 corrections agency or facility or of a Washington state department of
8 corrections facility; (ii) one corrections officer who is at or below
9 the level of first line supervisor and who has at least ten years'
10 experience as a corrections officer; (iii) one civilian member of the
11 commission as appointed under RCW 43.101.030(1) (f) and (h) through
12 (j); (iv) one member of the public who is not a prosecutor, defense
13 attorney, judge, or law enforcement officer; and (v) one person with
14 expertise and background in police accountability who is not a
15 current or former peace officer or corrections officer.

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

26 (d) Persons appointed to hearings panels by the commission shall,
27 in relation to any certification action on which they sit, have the
28 powers, duties, and immunities, and are entitled to the emoluments,
29 including travel expenses in accordance with RCW 43.03.050 and
30 43.03.060, of regular commission members.

31 (4) In decertification matters where there was a due process
32 hearing or a disciplinary appeals hearing following an investigation
33 by a law enforcement agency, or a criminal hearing regarding the
34 alleged misconduct, the hearings panel need not redetermine the
35 underlying facts but may make its determination based solely on
36 review of the records and decision relating to those proceedings and
37 any investigative or summary materials from the administrative law
38 judge, legal counsel, and commission staff. However, the hearings
39 panel may, in its discretion, consider additional evidence to
40 determine whether misconduct occurred. The hearings panel shall, upon

1 written request by the subject peace officer or corrections officer,
2 allow the peace officer or corrections officer to present additional
3 evidence of extenuating circumstances.

4 (5) The commission is authorized to proceed regardless of whether
5 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, to place on probation, or
11 to require remedial 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, revocations obtained
18 via default or surrender, certification denials, and all cases that
19 were resolved with disciplinary action, must be made available on an
20 annual basis on a public website.

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

23 **Sec. 14.** RCW 43.101.400 and 2021 c 323 s 21 are each amended to
24 read as follows:

25 (1) Except as provided under subsection (2) of this section, all
26 files, papers, and other information obtained by the commission as
27 part of ((an initial)) a background investigation pursuant to RCW
28 43.101.095 ((+2) and (4)), 36.28.025, and 35.21.333 are confidential
29 and exempt from public disclosure. Such records are not subject to
30 public disclosure, subpoena, or discovery proceedings in any civil
31 action, except as provided in RCW 43.101.380(6) or which become part
32 of the record in a suspension or decertification ((matter)) hearing.

33 (2) Records which are otherwise confidential and exempt from
34 public disclosure under subsection (1) of this section may be
35 reviewed and copied: (a) By the officer involved or the officer's
36 counsel or authorized representative, who may review the officer's
37 file after the officer has been served with a statement of charges
38 pursuant to RCW 43.101.155, and may submit any additional exculpatory
39 or explanatory evidence, statements, or other information, any of

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

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

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

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

30 NEW SECTION. **Sec. 15.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 35.66.010 (Authority to establish) and 1965 c 7 s
33 35.66.010;

34 (2) RCW 35.66.020 (Appointment) and 1965 c 7 s 35.66.020;

35 (3) RCW 35.66.030 (Assistance by police) and 1965 c 7 s
36 35.66.030;

37 (4) RCW 35.66.040 (Compensation) and 2007 c 218 s 68 & 1965 c 7 s
38 35.66.040;

1 (5) RCW 35.66.050 (Persons under arrest—Separate quarters) and
2 1973 1st ex.s. c 154 s 53 & 1965 c 7 s 35.66.050; and
3 (6) RCW 36.28.011 (Duty to make complaint) and 1963 c 4 s
4 36.28.011.

5 NEW SECTION. **Sec. 16.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

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