CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5068

69th Legislature
2026 Regular Session

Passed by the Senate March 9, 2026
Yeas 28 Nays 19

President of the Senate

Passed by the House March 6, 2026
Yeas 62 Nays 33

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5068** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Secretary of State
State of Washington

ENGROSSED SENATE BILL 5068

AS AMENDED BY THE HOUSE

Passed Legislature - 2026 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By Senators Lovick, Hansen, Dhingra, Frame, Hasegawa, Liias, Nobles, Salomon, Trudeau, Valdez, and Wellman

Prefiled 12/16/24. Read first time 01/13/25. Referred to Committee on Law & Justice.

AN ACT Relating to agencies, firefighters, prosecutors, and general or limited authority law enforcement, extending eligibility for employment to all United States citizens or persons legally authorized to work in the United States under federal law; amending RCW 10.93.165, 36.27.040, 43.101.095, and 43.101.105; adding a new section to chapter 10.93 RCW; adding a new section to chapter 36.27 RCW; adding a new section to chapter 43.101 RCW; creating a new section; and declaring an emergency.

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

Sec. 1. RCW 10.93.165 and 2024 c 11 s 1 are each amended to read as follows:

((~~A~~)) (1) Except as provided in subsection (2) of this section and RCW 43.101.095, a general authority Washington law enforcement agency or limited authority Washington law enforcement agency may consider the application of a citizen of the United States or a lawful permanent resident for any office, place, position, or employment within the agency.

(2) For purposes of hiring an employee whose primary job function is to provide for the custody, safety, and security of adult persons in state correctional facilities or local jails, a general authority Washington law enforcement agency or limited authority Washington law

enforcement agency may consider the application of a citizen of the United States or a person who is legally authorized to work in the United States under federal law.

(a) This subsection shall be interpreted and applied consistent with federal law and regulations. This subsection shall not be construed to permit the agency to override or bypass work authorization requirements stated in section 274a.2 of Title 8 of the Code of Federal Regulations.

(b) The agency shall not be liable for a claim pursuant to RCW 49.60.030 or other applicable law if it rejects an application based on the agency's determination that the applicant's legal authorization to work in the United States under federal law is limited in such a manner as to make employment with the agency impracticable.

NEW SECTION. **Sec. 2.** A new section is added to chapter 10.93 RCW to read as follows:

Employees whose primary job function is to provide for the custody, safety, and security of adult persons in state correctional facilities or local jails must be a citizen of the United States or a person who is legally authorized to work in the United States under federal law.

This section shall be interpreted and applied consistent with federal law and regulations. This section shall not be construed to permit an employer to override or bypass work authorization requirements stated in section 274a.2 of Title 8 of the Code of Federal Regulations.

Sec. 3. RCW 36.27.040 and 2024 c 11 s 2 are each amended to read as follows:

The prosecuting attorney may appoint one or more deputies who shall have the same power in all respects as their principal. Each appointment shall be in writing, signed by the prosecuting attorney, and filed in the county auditor's office. Each deputy thus appointed shall have the same qualifications required of the prosecuting attorney, except that such deputy need not be a resident of the county in which he or she serves nor a qualified elector therein. Each deputy appointed must be a citizen of the United States or a ((~~lawful permanent resident~~)) person who is legally authorized to work in the United States under federal law. The prosecuting attorney

may appoint one or more special deputy prosecuting attorneys upon a contract or fee basis whose authority shall be limited to the purposes stated in the writing signed by the prosecuting attorney and filed in the county auditor's office. Such special deputy prosecuting attorney shall be admitted to practice as an attorney before the courts of this state but need not be a resident of the county in which he or she serves and shall not be under the legal disabilities attendant upon prosecuting attorneys or their deputies except to avoid any conflict of interest with the purpose for which he or she has been engaged by the prosecuting attorney. The prosecuting attorney shall be responsible for the acts of his or her deputies and may revoke appointments at will.

Two or more prosecuting attorneys may agree that one or more deputies for any one of them may serve temporarily as deputy for any other of them on terms respecting compensation which are acceptable to said prosecuting attorneys. Any such deputy thus serving shall have the same power in all respects as if he or she were serving permanently.

The provisions of chapter 39.34 RCW shall not apply to such agreements.

The provisions of RCW 41.56.030(12) shall not be interpreted to permit a prosecuting attorney to alter the at-will relationship established between the prosecuting attorney and his or her appointed deputies by this section for a period of time exceeding his or her term of office. Neither shall the provisions of RCW 41.56.030(12) require a prosecuting attorney to alter the at-will relationship established by this section.

NEW SECTION. **Sec. 4.** A new section is added to chapter 36.27 RCW to read as follows:

Employees of prosecuting attorneys' offices must be a citizen of the United States or a person who is legally authorized to work in the United States under federal law.

This section shall be interpreted and applied consistent with federal law and regulations. This section shall not be construed to permit an employer to override or bypass work authorization requirements stated in section 274a.2 of Title 8 of the Code of Federal Regulations.

Sec. 5. RCW 43.101.095 and 2025 c 349 s 2 are each amended to read as follows:

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

(2)(a) Any applicant who has been offered a conditional offer of employment as a peace officer or reserve officer, offered a conditional offer of employment as a corrections officer after July 1, 2021, or offered a conditional offer of employment as a limited authority Washington peace officer who if hired would qualify as a peace officer as defined by RCW 43.101.010 after July 1, 2023, must submit to a background investigation to determine the applicant's suitability for employment. This requirement applies to any applicant moving from any Washington law enforcement or corrections agency to another, as well as applicants moving from a certified peace officer position to a certified corrections officer position, or vice versa, within the same agency. This requirement does not apply to any person whose certification has lapsed as a result of a break of more than 24 consecutive months in the officer's service as a result of being recalled into military service. Employing agencies may only make a conditional offer of employment pending completion of the background check and shall verify in writing to the commission that they have complied with all background check requirements prior to making any nonconditional offer of employment.

(b) The background check must include:

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

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

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

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

(v) ((~~Verification~~)) (A) For peace officers, verification of immigrant or citizenship status as either a citizen of the United States of America, lawful permanent resident, or deferred action for childhood arrivals recipient.

(B) For corrections officers, verification of immigrant or citizenship status as a citizen of the United States or a person who is legally authorized to work in the United States under federal law. This subsection shall be interpreted and applied consistent with federal law and regulations. This subsection shall not be construed to permit an employer to override or bypass work authorization requirements stated in section 274a.2 of Title 8 of the Code of Federal Regulations;

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

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

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

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

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

(3)(a) The commission shall allow a peace officer or corrections officer to retain status as a certified peace officer or corrections

officer as long as the officer: (i) Timely meets the basic training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (ii) timely meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (iii) is not denied certification by the commission under this chapter; and (iv) has not had certification suspended or revoked by the commission.

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

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

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

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

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

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.101 RCW to read as follows:

A corrections officer must be a citizen of the United States or a person who is legally authorized to work in the United States under federal law.

This section shall be interpreted and applied consistent with federal law and regulations. This section shall not be construed to permit an employer to override or bypass work authorization requirements stated in section 274a.2 of Title 8 of the Code of Federal Regulations.

Sec. 7. RCW 43.101.105 and 2021 c 323 s 9 are each amended to read as follows:

(1) To help prevent misconduct, enhance peace officer and corrections officer accountability through the imposition of sanctions commensurate to the wrongdoing when misconduct occurs, and enhance public trust and confidence in the criminal justice system, upon request by an officer's employer or on its own initiative, the commission may deny, suspend, or revoke certification of, or require remedial training for, an officer as provided in this section. The commission shall provide the officer with written notice and a hearing, if a hearing is timely requested by the officer under RCW 43.101.155. Notice and hearing are not required when a peace officer voluntarily surrenders certification.

(2) The commission must deny or revoke the certification of an applicant or officer if the applicant or officer:

(a)(i) Has been convicted of:

(A) A felony offense;

(B) A gross misdemeanor domestic violence offense;

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

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

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

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

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

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

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

(b) Has been terminated by the employing agency or otherwise separated from the employing agency after engaging in, or was found by a court to have engaged in, the use of force which resulted in death or serious injury and the use of force violated the law;

(c) Has been terminated by the employing agency or otherwise separated from the employing agency after witnessing, or found by a court to have witnessed, another officer's use of excessive force and:

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

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

(d) Has been terminated by the employing agency or otherwise separated from the employing agency after knowingly making, or found by a court to have knowingly made, misleading, deceptive, untrue, or fraudulent representations in the practice of being a peace officer or corrections officer including, but not limited to, committing perjury, filing false reports, hiding evidence, or failing to report exonerating information. This subsection (2)(d) does not apply to representations made in the course and for the purposes of an undercover investigation or other lawful law enforcement purpose; or

(e) Is prohibited from possessing weapons by state or federal law or by a permanent court order entered after a hearing, provided that this subsection shall not be interpreted to require or permit the denial or revocation based solely on an applicant's or officer's prohibition from possessing weapons under federal law if the prohibition is solely based on the applicant's or officer's immigration status and the applicant or officer would otherwise lawfully possess weapons in their capacity as a peace officer or corrections officer under federal law pursuant to 18 U.S.C. Sec. 925(a)(1) or other applicable federal law after being hired as a peace officer or corrections officer.

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

(a) Failed to timely meet all requirements for obtaining a certificate of basic law enforcement or corrections training, a

certificate of basic law enforcement or corrections training equivalency, or a certificate of exemption from the training;

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

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

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

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

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

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

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

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

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

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

(i) Has affiliation with one or more extremist organizations;

(j) Whether occurring on or off duty, has:

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

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

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

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

(k) Has been suspended or discharged, has resigned or retired in lieu of discharge, or has separated from the agency after the alleged misconduct occurred, for any conduct listed in this section; or

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

(4) In addition to the penalties set forth in subsection (3) of this section, the commission may require mandatory retraining or placement on probation for up to two years, or both. In determining the appropriate penalty or sanction, the commission shall consider: The findings and conclusions, and the basis for the findings and conclusions, of any due process hearing or disciplinary appeals hearing following an investigation by a law enforcement agency regarding the alleged misconduct, if such hearing has occurred prior to the commission's action; any sanctions or training ordered by the employing agency regarding the alleged misconduct; and whether the employing agency bears any responsibility for the situation.

(5) The commission shall deny certification to any applicant who lost certification as a result of a break in service of more than 24 consecutive months if that applicant failed to comply with the requirements set forth in RCW 43.101.080(15) and 43.101.095(2).

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

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

(8) A law enforcement agency may not terminate a peace officer based solely on imposition of suspension or probation by the commission. This subsection does not prohibit a law enforcement agency from terminating a peace officer based on the underlying acts or omissions for which the commission took such action.

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

NEW SECTION. **Sec. 8.** Sections 2, 4, and 6 apply retroactively to individuals who are employed on and after the effective date of this act.

NEW SECTION. **Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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