

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5051

Chapter 323, Laws of 2021

67th Legislature
2021 Regular Session

PEACE OFFICERS AND CORRECTIONS OFFICERS—STATE OVERSIGHT AND
ACCOUNTABILITY

EFFECTIVE DATE: July 25, 2021

Passed by the Senate April 21, 2021
Yeas 27 Nays 22

DENNY HECK

President of the Senate

Passed by the House April 7, 2021
Yeas 54 Nays 43

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 18, 2021 11:48 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5051** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 18, 2021

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5051

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Pedersen, Dhingra, Darneille, Hunt, Kuderer, Liiias, Lovelett, Mullet, Nguyen, Salomon, Stanford, Wellman, and Wilson, C.)

READ FIRST TIME 02/17/21.

1 AN ACT Relating to state oversight and accountability of peace
2 officers and corrections officers; amending RCW 43.101.010,
3 43.101.020, 43.101.030, 43.101.040, 43.101.060, 43.101.080,
4 43.101.085, 43.101.095, 43.101.105, 43.101.115, 43.101.135,
5 43.101.145, 43.101.155, 43.101.157, 43.101.230, 43.101.390,
6 43.101.420, 34.12.035, 40.14.070, 43.101.380, 43.101.400, 41.56.905,
7 49.44.200, 41.06.040, and 43.101.200; adding a new section to chapter
8 43.101 RCW; adding a new section to chapter 41.06 RCW; adding a new
9 section to chapter 10.93 RCW; creating new sections; repealing RCW
10 43.101.096, 43.101.106, 43.101.116, 43.101.136, 43.101.146,
11 43.101.156, and 43.101.180; and prescribing penalties.

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

13 **Sec. 1.** RCW 43.101.010 and 2020 c 119 s 2 are each amended to
14 read as follows:

15 When used in this chapter:

16 (1) (~~The term "commission"~~) "Applicant" means an individual who
17 has received a conditional offer of employment with a law enforcement
18 or corrections agency.

19 (2) "Commission" means the Washington state criminal justice
20 training commission.

1 ~~((2) The term "boards" means the education and training~~
2 ~~standards boards, the establishment of which are authorized by this~~
3 ~~chapter.))~~

4 (3) ~~((The term "criminal"))~~ "Criminal justice personnel" means any
5 person who serves ~~((in a county, city, state, or port commission~~
6 ~~agency engaged in crime prevention, crime reduction, or enforcement~~
7 ~~of the criminal law))~~ as a peace officer, reserve officer, or
8 corrections officer.

9 (4) ~~((The term "law"))~~ "Law enforcement personnel" means any
10 ~~((public employee or volunteer having as a primary function the~~
11 ~~enforcement of criminal laws in general or any employee or volunteer~~
12 ~~of, or any individual commissioned by, any municipal, county, state,~~
13 ~~or combination thereof, agency having as its primary function the~~
14 ~~enforcement of criminal laws in general as distinguished from an~~
15 ~~agency possessing peace officer powers, the primary function of which~~
16 ~~is the implementation of specialized subject matter areas. For the~~
17 ~~purposes of this subsection "primary function" means that function to~~
18 ~~which the greater allocation of resources is made))~~ person elected,
19 appointed, or employed as a general authority Washington peace
20 officer as defined in RCW 10.93.020.

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

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

38 (7) ~~((A peace officer or corrections officer is "convicted"))~~
39 "Convicted" means at the time a plea of guilty , nolo contendere, or
40 deferred sentence has been accepted, or a verdict of guilty or

1 finding of guilt has been filed, notwithstanding the pendency of any
2 future proceedings, including but not limited to sentencing,
3 posttrial or postfact-finding motions and appeals. "Conviction"
4 includes ~~((a deferral of sentence))~~ all instances in which a plea of
5 guilty or nolo contendere is the basis for conviction, all
6 proceedings in which there is a case disposition agreement, and
7 ~~((also includes the))~~ any equivalent disposition by a court in a
8 jurisdiction other than the state of Washington.

9 (8) ~~((a) "Discharged for disqualifying misconduct" has the~~
10 ~~following meanings:~~

11 ~~(i) A peace officer terminated from employment for: (A)~~
12 ~~Conviction of (I) any crime committed under color of authority as a~~
13 ~~peace officer, (II) any crime involving dishonesty or false statement~~
14 ~~within the meaning of Evidence Rule 609(a), (III) the unlawful use or~~
15 ~~possession of a controlled substance, or (IV) any other crime the~~
16 ~~conviction of which disqualifies a Washington citizen from the legal~~
17 ~~right to possess a firearm under state or federal law; (B) conduct~~
18 ~~that would constitute any of the crimes addressed in (a)(i)(A) of~~
19 ~~this subsection; or (C) knowingly making materially false statements~~
20 ~~during disciplinary investigations, where the false statements are~~
21 ~~the sole basis for the termination; or~~

22 ~~(ii) A corrections officer terminated from employment for: (A)~~
23 ~~Conviction of (I) any crime committed under color of authority as a~~
24 ~~corrections officer, (II) any crime involving dishonesty or false~~
25 ~~statement within the meaning of Evidence Rule 609(a), or (III) the~~
26 ~~unlawful use or possession of a controlled substance; (B) conduct~~
27 ~~that would constitute any of the crimes addressed in (a)(ii)(A) of~~
28 ~~this subsection; or (C) knowingly making materially false statements~~
29 ~~during disciplinary investigations, where the false statements are~~
30 ~~the sole basis for the termination.~~

31 ~~(b) A peace officer or corrections officer is "discharged for~~
32 ~~disqualifying misconduct" within the meaning of this subsection (8)~~
33 ~~under the ordinary meaning of the term and when the totality of the~~
34 ~~circumstances support a finding that the officer resigned in~~
35 ~~anticipation of discipline, whether or not the misconduct was~~
36 ~~discovered at the time of resignation, and when such discipline, if~~
37 ~~carried forward, would more likely than not have led to discharge for~~
38 ~~disqualifying misconduct within the meaning of this subsection (8).~~

39 ~~(9) When used in context of proceedings referred to in this~~
40 ~~chapter, "final" means that the peace officer or corrections officer~~

1 has exhausted all available civil service appeals, collective
2 bargaining remedies, and all other such direct administrative
3 appeals, and the officer has not been reinstated as the result of the
4 action. Finality is not affected by the pendency or availability of
5 state or federal administrative or court actions for discrimination,
6 or by the pendency or availability of any remedies other than direct
7 civil service and collective bargaining remedies.

8 ~~(10))~~ "Peace officer" ~~((means any law enforcement personnel~~
9 ~~subject to the basic law enforcement training requirement of RCW~~
10 ~~43.101.200 and any other requirements of that section,~~
11 ~~notwithstanding any waiver or exemption granted by the commission,~~
12 ~~and notwithstanding the statutory exemption based on date of initial~~
13 ~~hire under RCW 43.101.200))~~ has the same meaning as a general
14 authority Washington peace officer as defined in RCW 10.93.020.
15 Commissioned officers of the Washington state patrol, whether they
16 have been or may be exempted by rule of the commission from the basic
17 training requirement of RCW 43.101.200, are included as peace
18 officers for purposes of this chapter. Fish and wildlife officers
19 with enforcement powers for all criminal laws under RCW 77.15.075 are
20 peace officers for purposes of this chapter.

21 ~~((11))~~ (9) "Corrections officer" means any corrections agency
22 employee whose primary job function is to provide for the custody,
23 safety, and security of adult ~~((prisoners))~~ persons in jails and
24 detention facilities ~~((and who is subject to the basic corrections~~
25 ~~training requirement of RCW 43.101.220 and any other requirements of~~
26 ~~that section, notwithstanding any waiver or exemption granted by the~~
27 ~~commission, and notwithstanding the statutory exemption based on date~~
28 ~~of initial hire under RCW 43.101.220. For the purpose of RCW~~
29 ~~43.101.080, 43.101.096, 43.101.106, 43.101.116, 43.101.121,~~
30 ~~43.101.126, 43.101.136, 43.101.146, 43.101.156, 43.101.380, and~~
31 ~~43.101.400, "corrections))~~ in the state. "Corrections officer" does
32 not include individuals employed by state agencies.

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

37 (11) "Reserve officer" means any person who does not serve as a
38 peace officer of this state on a full-time basis, but who, when
39 called by an agency into active service, is fully commissioned on the

1 same basis as full-time officers to enforce the criminal laws of this
2 state and includes:

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

5 (b) Limited authority Washington peace officers as defined in RCW
6 10.93.020;

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

9 (d) Persons employed for the purpose of providing security in the
10 K-12 Washington state public school system as defined in RCW
11 28A.150.010 and who are authorized to use force in fulfilling their
12 responsibilities.

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

16 **Sec. 2.** RCW 43.101.020 and 1974 ex.s. c 94 s 2 are each amended
17 to read as follows:

18 (1) There is hereby created and established a state commission to
19 be known and designated as the Washington state criminal justice
20 training commission.

21 (2) The purpose of ~~((such))~~ the commission shall be to ~~((provide~~
22 ~~programs and standards for the training of criminal justice~~
23 ~~personnel))~~ establish and administer standards and processes for
24 certification, suspension, and decertification of peace officers and
25 corrections officers. The commission shall provide programs and
26 training that enhance the integrity, effectiveness, and
27 professionalism of peace officers and corrections officers while
28 helping to ensure that law enforcement and correctional services are
29 delivered to the people of Washington in a manner that fully complies
30 with the Constitutions and laws of this state and United States. In
31 carrying out its duties, the commission shall strive to promote
32 public trust and confidence in every aspect of the criminal justice
33 system.

34 **Sec. 3.** RCW 43.101.030 and 2020 c 44 s 1 are each amended to
35 read as follows:

36 The commission shall consist of ~~((sixteen))~~ 21 members~~((, who~~
37 ~~shall be selected))~~ as follows:

38 (1) The governor shall appoint ~~((two))~~ :

1 (a) One incumbent sheriff((s)) and ((two)) one incumbent
2 chief((s)) of police.

3 ~~((2) The governor shall appoint one officer))~~ The governor shall
4 additionally appoint an alternate incumbent chief of police who may
5 perform commission duties in place of the appointed incumbent chief
6 if that person is unavailable;

7 (b) Two officers at or below the level of first line supervisor
8 who:

9 (i) Have at least ten years' experience as law enforcement
10 officers;

11 (ii) Are from ((a county)) two different law enforcement ((agency
12 and one officer at or below the level of first line supervisor from a
13 municipal law enforcement agency. Each appointee under this
14 subsection (2) shall have at least ten years experience as a law
15 enforcement officer.

16 ~~(3) The governor shall appoint one))~~ agencies that each have at
17 least 15 officers and are different than the agencies with which the
18 members in (a) of this subsection are affiliated; and

19 (iii) Are affiliated with different labor organizations;

20 (c) One tribal police officer at or below the level of first line
21 supervisor who has at least 10 years' experience as a law enforcement
22 officer;

23 (d) One person employed ((in a county correctional system and one
24 person employed in the state correctional system.

25 ~~(4) The governor shall appoint one))~~ in a state or county
26 corrections agency;

27 (e) One incumbent county prosecuting attorney or municipal
28 attorney((-

29 ~~(5) The governor shall appoint one))~~ and one public defender;

30 (f) One licensed attorney with background in investigating,
31 advocating, teaching, training, or presiding over matters related to
32 enhancing law enforcement practices and accountability, who has not
33 been employed in law enforcement;

34 (g) One elected official of a local government((-

35 ~~(6) The governor shall appoint two private citizens))~~ who is not
36 a sheriff or police chief and has not been employed in the last 10
37 years as a peace officer or prosecutor in any jurisdiction;

38 (h) One person with civilian oversight or auditing experience
39 over law enforcement agencies;

1 (i) Seven community members who are not employed in law
2 enforcement, ((one from)) including at least two who reside east of
3 the crest of the Cascade mountains and ((one from west of the crest
4 of the Cascade mountains. At)) at least ((one of the private citizens
5 must be)) three who are from a historically underrepresented
6 community or communities((-

7 ~~(7) The governor shall appoint one)); and~~

8 (j) One tribal chair, board member, councilmember, or
9 ((designee)) enrolled member from a federally recognized tribe with
10 an active certification agreement under RCW 43.101.157((-

11 ~~(8) The three remaining members shall be:~~

12 ~~(a)) who is not a sheriff and has not been employed in the last~~
13 10 years as a peace officer or prosecutor in any jurisdiction;

14 (2) The attorney general or the attorney general's designee;

15 ~~((b) The special agent in charge of the Seattle office of the~~
16 ~~federal bureau of investigation; and~~

17 ~~(c)) (3) The chief of the state patrol or the chief's designee.~~

18 **Sec. 4.** RCW 43.101.040 and 2009 c 549 s 5167 are each amended to
19 read as follows:

20 All members appointed to the commission by the governor shall be
21 appointed for terms of six years, such terms to commence on July
22 first, and expire on June thirtieth(~~(: PROVIDED, That of the))~~).
23 However, for members first appointed ((three shall be appointed for
24 two year terms, three shall be appointed for four year terms, and
25 three shall be appointed for six year terms: PROVIDED, FURTHER, That
26 the terms of the two members appointed as incumbent police chiefs
27 shall not expire in the same year nor shall the terms of the two
28 members appointed as representing correctional systems expire in the
29 same year nor shall the terms of the two members appointed as
30 incumbent sheriffs expire in the same year)) as a result of
31 chapter . . ., Laws of 2021 (this act), the governor shall appoint
32 members to terms ranging from two years to six years in order to
33 stagger future appointments. Any member chosen to fill a vacancy
34 created otherwise than by expiration of term shall be appointed for
35 the unexpired term of the member ~~((he or she))~~ the appointee is to
36 succeed. Any member may be reappointed for additional terms.

37 **Sec. 5.** RCW 43.101.060 and 1999 c 97 s 2 are each amended to
38 read as follows:

1 The commission shall elect a chair and a vice chair from among
2 its members. (~~(Seven)~~) Nine members of the commission shall
3 constitute a quorum. (~~The governor shall summon the commission to~~
4 ~~its first meeting.~~

5 Meetings) The commission shall meet at least quarterly.
6 Additional meetings may be called by the chair and shall be called by
7 (~~him or her~~) the chair upon the written request of six members.

8 **Sec. 6.** RCW 43.101.080 and 2020 c 119 s 13 are each amended to
9 read as follows:

10 The commission shall have all of the following powers:

11 (~~(1) (To meet at such times and places as it may deem proper;~~
12 ~~(2) To adopt any rules and regulations as it may deem necessary;~~
13 ~~(3) To contract for services as it deems necessary in order to~~
14 ~~carry out its duties and responsibilities;~~

15 ~~(4) To cooperate with and secure the cooperation of any~~
16 ~~department, agency, or instrumentality in state, county, and city~~
17 ~~government, and other commissions affected by or concerned with the~~
18 ~~business of the commission;~~

19 ~~(5) To do any and all things necessary or convenient to enable it~~
20 ~~fully and adequately to perform its duties and to exercise the power~~
21 ~~granted to it;~~

22 ~~(6) To select and employ an executive director, and to empower~~
23 ~~him or her to perform such duties and responsibilities as it may deem~~
24 ~~necessary;~~

25 ~~(7) To~~) Conduct training, including the basic law enforcement
26 academy and in-service training, and assume legal, fiscal, and
27 program responsibility for all training conducted by the commission;

28 (~~(8) To establish~~) (2) Grant, deny, suspend, or revoke
29 certification of, or require remedial training for, peace officers
30 and corrections officers under the provisions of this chapter;

31 (3) Grant, deny, suspend, or revoke certification of tribal
32 police officers whose tribal governments have agreed to participate
33 in the tribal police officer certification process;

34 (4) Related to its duties under subsections (2) and (3) of this
35 section, provide for the comprehensive and timely investigation of
36 complaints where necessary to ensure adherence to law and agency
37 policy, strengthen the integrity and accountability of peace officers
38 and corrections officers, and maintain public trust and confidence in
39 the criminal justice system in this state;

1 (5) Establish, by rule and regulation, curricula and standards
2 for the training of criminal justice personnel where such curricula
3 and standards are not prescribed by statute;

4 ~~((9) To own))~~ (6) Own, establish, and operate, or ~~((to))~~
5 contract with other qualified institutions or organizations for the
6 operation of, training and education programs for criminal justice
7 personnel ~~((and to purchase, lease, or otherwise acquire, subject to~~
8 ~~the approval of the department of enterprise services, a training~~
9 ~~facility or facilities necessary to the conducting of such programs;~~

10 ~~(10) To establish, by rule and regulation, minimum curriculum~~
11 ~~standards for all training programs conducted for employed criminal~~
12 ~~justice personnel;~~

13 ~~(11) To review))~~;

14 (7) Review and approve or reject standards for instructors of
15 training programs for criminal justice personnel, and ~~((to))~~ employ
16 personnel from law enforcement agencies on a temporary basis as
17 instructors without any loss of employee benefits to those
18 instructors from those agencies;

19 ~~((12) To direct))~~ (8) Direct the development of alternative,
20 innovative, and interdisciplinary training techniques;

21 ~~((13) To review))~~ (9) Review and approve or reject training
22 programs conducted for criminal justice personnel and rules
23 establishing and prescribing minimum training and education standards
24 ~~((recommended by the training standards and education boards))~~,
25 including continuing education;

26 ~~((14) To allocate))~~ (10) Allocate financial resources among
27 training and education programs conducted by the commission;

28 ~~((15) To))~~ (11) Purchase, lease, or otherwise acquire, subject
29 to the approval of the department of enterprise services, a training
30 facility or facilities and allocate training facility space among
31 training and education programs conducted by the commission;

32 ~~((16) To issue))~~ (12) Issue diplomas certifying satisfactory
33 completion of any training or education program conducted or approved
34 by the commission to any person so completing such a program;

35 ~~((17) To provide))~~ (13) Provide for the employment of such
36 personnel as may be practical to serve as temporary replacements for
37 any person engaged in a basic training program as defined by the
38 commission;

39 ~~((18) To establish))~~ (14) Establish rules and regulations
40 ~~((recommended by the training standards and education boards))~~

1 prescribing minimum standards relating to physical, mental, and moral
2 fitness which shall govern the recruitment of criminal justice
3 personnel where such standards are not prescribed by statute or
4 constitutional provision;

5 ~~((19) To require))~~ (15) Require county, city, port, or state law
6 enforcement and corrections agencies that make a conditional offer of
7 employment to an applicant as a fully commissioned peace officer, a
8 reserve officer, or a corrections officer to administer a background
9 investigation ~~((including a check of criminal history, verification~~
10 ~~of immigrant or citizenship status as either a citizen of the United~~
11 ~~States of America or a lawful permanent resident, a psychological~~
12 ~~examination, and a polygraph test or similar assessment to each~~
13 ~~applicant, the results of which shall be used by the employer to~~
14 ~~determine the applicant's suitability for employment as a fully~~
15 ~~commissioned peace officer, a reserve officer, or a corrections~~
16 ~~officer. The background investigation, psychological examination, and~~
17 ~~the polygraph examination shall be administered in accordance with~~
18 ~~the requirements of RCW 43.101.095(2) for peace officers, and RCW~~
19 ~~43.101.096 for corrections officers. The employing county, city, or~~
20 ~~state law enforcement agency may require that each peace officer,~~
21 ~~reserve officer, or corrections officer who is required to take a~~
22 ~~psychological examination and a polygraph or similar test pay a~~
23 ~~portion of the testing fee based on the actual cost of the test or~~
24 ~~four hundred dollars, whichever is less. County, city, and state law~~
25 ~~enforcement agencies may establish a payment plan if they determine~~
26 ~~that the peace officer, reserve officer, or corrections officer does~~
27 ~~not readily have the means to pay for his or her portion of the~~
28 ~~testing fee. This subsection does not apply to corrections officers~~
29 ~~employed by state agencies;~~

30 ~~(20) To promote))~~ in accordance with the requirements of RCW
31 43.101.095 to determine the applicant's suitability for employment as
32 a fully commissioned peace officer, reserve officer, or corrections
33 officer;

34 (16) Appoint members of a hearings panel as provided under RCW
35 43.101.380;

36 (17) Issue public recommendations to the governing body of a law
37 enforcement agency regarding the agency's command decisions,
38 inadequacy of policy or training, investigations or disciplinary
39 decisions regarding misconduct, potential systemic violations of law
40 or policy, unconstitutional policing, or other matters;

1 (18) Promote positive relationships between law enforcement and
2 the ~~((citizens))~~ residents of the state of Washington ~~((by allowing))~~
3 through commissioners and staff ~~((to participate))~~ participation in
4 the "chief for a day program." The executive director shall designate
5 staff who may participate. In furtherance of this purpose, the
6 commission may accept grants of funds and gifts and may use its
7 public facilities for such purpose. At all times, the participation
8 of commissioners and staff shall comply with chapter 42.52 RCW and
9 chapter 292-110 WAC ~~((-~~

10 ~~All))~~;

11 (19) Adopt, amend, repeal, and administer rules and regulations
12 ~~((adopted by the commission shall be adopted and administered))~~
13 pursuant to the administrative procedure act, chapter 34.05 RCW, and
14 the open public meetings act, chapter 42.30 RCW.

15 **Sec. 7.** RCW 43.101.085 and 2020 c 119 s 1 are each amended to
16 read as follows:

17 In addition to its other powers granted under this chapter, the
18 commission has authority and power to:

19 ~~(1) ((Adopt, amend, or repeal rules as necessary to carry out~~
20 ~~this chapter;~~

21 ~~(2))~~ Contract for services as it deems necessary in order to
22 carry out its duties and responsibilities;

23 (2) Cooperate with and secure the cooperation of any department,
24 agency, or instrumentality in state, county, and city government, and
25 other commissions affected by or concerned with the business of the
26 commission;

27 (3) Select and employ an executive director, and empower the
28 director to perform such duties and responsibilities as the
29 commission may deem necessary;

30 (4) Issue subpoenas and statements of charges, and administer
31 oaths in connection with investigations, hearings, or other
32 proceedings held under this chapter, or designate individuals to do
33 so;

34 ~~((+3))~~ (5) Employ such staff as necessary for the implementation
35 and enforcement of this chapter;

36 (6) Take or cause to be taken depositions and other discovery
37 procedures as needed in investigations, hearings, and other
38 proceedings held under this chapter;

1 ~~((4) Appoint members of a hearings board as provided under RCW~~
2 ~~43.101.380;~~

3 ~~(5))~~ (7) Enter into contracts for professional services
4 determined by the commission to be necessary for adequate enforcement
5 of this chapter;

6 ~~((6) Grant, deny, or revoke certification of peace officers and~~
7 ~~corrections officers under the provisions of this chapter;~~

8 ~~(7) Designate individuals authorized to sign subpoenas and~~
9 ~~statements of charges under the provisions of this chapter;~~

10 ~~(8) Employ such investigative, administrative, and clerical staff~~
11 ~~as necessary for the enforcement of this chapter; and~~

12 ~~(9) Grant, deny, or revoke certification of tribal police~~
13 ~~officers whose tribal governments have agreed to participate in the~~
14 ~~tribal police officer certification process)) and~~

15 (8) Exercise lawful actions necessary to enable the commission to
16 fully and adequately perform its duties and to exercise the lawful
17 powers granted to the commission.

18 **Sec. 8.** RCW 43.101.095 and 2018 c 32 s 5 are each amended to
19 read as follows:

20 (1) As a condition of ~~((continuing))~~ employment ~~((as peace~~
21 ~~officers))~~, all Washington peace officers~~((: (a) Shall timely obtain~~
22 ~~certification as peace officers, or timely obtain certification or~~
23 ~~exemption therefrom, by meeting all requirements of RCW 43.101.200,~~
24 ~~as that section is administered under the rules of the commission, as~~
25 ~~well by meeting any additional requirements under this chapter; and~~
26 ~~(b) shall maintain the basic certification as peace officers under~~
27 ~~this chapter))~~ and corrections officers are required to obtain
28 certification as a peace officer or corrections officer or exemption
29 therefrom and maintain certification as required by this chapter and
30 the rules of the commission.

31 (2) (a) ~~((As a condition of continuing employment for any))~~ Any
32 applicant who has been offered a conditional offer of employment as a
33 ((fully commissioned)) peace officer or ((a)) reserve officer ((after
34 July 24, 2005)) or offered a conditional offer of employment as a
35 corrections officer after July 1, 2021, including any person whose
36 certification has lapsed as a result of a break of more than
37 ((twenty-four)) 24 consecutive months in the officer's service ((as a
38 fully commissioned peace officer or reserve officer, the applicant
39 shall)) for a reason other than being recalled to military service,

1 must submit to a background investigation (~~(including a)~~) to
2 determine the applicant's suitability for employment. Employing
3 agencies may only make a conditional offer of employment pending
4 completion of the background check and shall verify in writing to the
5 commission that they have complied with all background check
6 requirements prior to making any nonconditional offer of employment.

7 (b) The background check must include:

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

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

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

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

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

30 (vi) A psychological examination(~~(, and a)~~) administered by a
31 psychiatrist licensed in the state of Washington pursuant to chapter
32 18.71 RCW or a psychologist licensed in the state of Washington
33 pursuant to chapter 18.83 RCW, in compliance with standards
34 established in rules of the commission;

35 (vii) A polygraph or similar assessment (~~(as)~~) administered by
36 (~~(the county, city, or state law enforcement agency, the results of~~
37 which shall be used to determine the applicant's suitability for
38 employment as a fully commissioned peace officer or a reserve
39 officer.

1 ~~(i) The background investigation including a check of criminal~~
2 ~~history shall be administered by the county, city, or state law~~
3 ~~enforcement agency that made the conditional offer of employment in~~
4 ~~compliance with standards established in the rules of the commission.~~

5 ~~(ii) The psychological examination shall be administered by a~~
6 ~~psychiatrist licensed in the state of Washington pursuant to chapter~~
7 ~~18.71 RCW or a psychologist licensed in the state of Washington~~
8 ~~pursuant to chapter 18.83 RCW, in compliance with standards~~
9 ~~established in rules of the commission.~~

10 ~~(iii) The polygraph test shall be administered by an experienced~~
11 ~~polygrapher who is a graduate of a polygraph school accredited by the~~
12 ~~American polygraph association and in compliance with standards~~
13 ~~established in rules of the commission.~~

14 ~~(iv))~~ an experienced professional with appropriate training and
15 in compliance with standards established in rules of the commission;
16 and

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

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

25 (d) The employing ~~((county, city, or state))~~ law enforcement
26 agency may require that each ~~((peace officer or reserve officer))~~
27 person who is required to take a psychological examination and a
28 polygraph or similar test pay a portion of the testing fee based on
29 the actual cost of the test or ~~((four hundred dollars))~~ \$400,
30 whichever is less. ~~((County, city, and state law enforcement))~~
31 Employing agencies may establish a payment plan if they determine
32 that the ~~((peace officer or reserve officer))~~ person does not readily
33 have the means to pay ~~((for his or her portion of))~~ the testing fee.

34 ~~(3) ((The commission shall certify peace officers who have~~
35 ~~satisfied, or have been exempted by statute or by rule from, the~~
36 ~~basic training requirements of RCW 43.101.200 on or before January 1,~~
37 ~~2002. Thereafter, the commission may revoke certification pursuant to~~
38 ~~this chapter.~~

39 ~~(4))~~ The commission shall allow a peace officer or corrections
40 officer to retain status as a certified peace officer or corrections

1 officer as long as the officer: (a) Timely meets the basic (~~law~~
2 ~~enforcement~~) training requirements, or is exempted therefrom, in
3 whole or in part, under RCW 43.101.200 or under rule of the
4 commission; (b) timely meets or is exempted from any other
5 requirements under this chapter as administered under the rules
6 adopted by the commission; (c) is not denied certification by the
7 commission under this chapter; and (d) has not had certification
8 suspended or revoked by the commission.

9 (~~(4)~~) (4) As a (~~prerequisite to~~) condition of certification,
10 (~~as well as a prerequisite to pursuit of a hearing under RCW~~
11 ~~43.101.155,~~) a peace officer or corrections officer must, on a form
12 devised or adopted by the commission, authorize the release to the
13 employing agency and commission of (~~his or her~~) the officer's
14 personnel files, including disciplinary, termination (~~(papers),~~
15 civil or criminal investigation (~~(files),~~ or other (~~(files,~~
16 ~~papers,~~) records or information that are directly related to a
17 certification matter or decertification matter before the commission.
18 The peace officer or corrections officer must also consent to and
19 facilitate a review of the officer's social media accounts, however,
20 consistent with RCW 49.44.200, the officer is not required to provide
21 login information. The release of information may not be delayed,
22 limited, or precluded by any agreement or contract between the
23 officer, or the officer's union, and the entity responsible for the
24 records or information.

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

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

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

1 **Sec. 9.** RCW 43.101.105 and 2011 c 234 s 3 are each amended to
2 read as follows:

3 (1) ~~((Upon))~~ To help prevent misconduct, enhance peace officer
4 and corrections officer accountability through the imposition of
5 sanctions commensurate to the wrongdoing when misconduct occurs, and
6 enhance public trust and confidence in the criminal justice system,
7 upon request by ((a—peace)) an officer's employer or on its own
8 initiative, the commission may deny, suspend, or revoke certification
9 of ((any peace)), or require remedial training for, an officer((,
10 after)) as provided in this section. The commission shall provide the
11 officer with written notice and a hearing, if a hearing is timely
12 requested by the ((peace)) officer under RCW 43.101.155(~~(,~~ based upon
13 a finding of one or more of the following conditions:

14 ~~(a) The peace officer has failed to timely meet all requirements~~
15 ~~for obtaining a certificate of basic law enforcement training, a~~
16 ~~certificate of basic law enforcement training equivalency, or a~~
17 ~~certificate of exemption from the training;~~

18 ~~(b) The peace officer has knowingly falsified or omitted material~~
19 ~~information on an application for training or certification to the~~
20 ~~commission;~~

21 ~~(c) The peace officer has been convicted at any time of a felony~~
22 ~~offense under the laws of this state or has been convicted of a~~
23 ~~federal or out-of-state offense comparable to a felony under the laws~~
24 ~~of this state; except that if a certified peace officer was convicted~~
25 ~~of a felony before being employed as a peace officer, and the~~
26 ~~circumstances of the prior felony conviction were fully disclosed to~~
27 ~~his or her employer before being hired, the commission may revoke~~
28 ~~certification only with the agreement of the employing law~~
29 ~~enforcement agency;~~

30 ~~(d) The peace officer has been discharged for disqualifying~~
31 ~~misconduct, the discharge is final, and some or all of the acts or~~
32 ~~omissions forming the basis for the discharge proceedings occurred on~~
33 ~~or after January 1, 2002;~~

34 ~~(e) The peace officer's certificate was previously issued by~~
35 ~~administrative error on the part of the commission; or~~

36 ~~(f) The peace officer has interfered with an investigation or~~
37 ~~action for denial or revocation of certificate by: (i) Knowingly~~
38 ~~making a materially false statement to the commission; or (ii) in any~~
39 ~~matter under investigation by or otherwise before the commission,~~
40 ~~tampering with evidence or tampering with or intimidating any~~

witness)). Notice and hearing are not required when a peace officer voluntarily surrenders certification.

(2) ((After July 24, 2005, the)) 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

1 representations made in the course and for the purposes of an
2 undercover investigation or other lawful law enforcement purpose; or

3 (e) Is prohibited from possessing weapons by state or federal law
4 or by a permanent court order entered after a hearing.

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

8 (a) Failed to timely meet all requirements for obtaining a
9 certificate of basic law enforcement or corrections training, a
10 certificate of basic law enforcement or corrections training
11 equivalency, or a certificate of exemption from the training;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (5) The commission shall deny certification to any applicant who
35 ((has)) lost ((his or her)) certification as a result of a break in
36 service of more than ((~~twenty-four~~)) 24 consecutive months if that
37 applicant failed to comply with the requirements set forth in RCW
38 43.101.080((~~-19~~)) (15) and 43.101.095(2).

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

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

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

12 (9) Any of the misconduct listed in subsections (2) and (3) of
13 this section is grounds for denial, suspension, or revocation of
14 certification of a reserve officer to the same extent as applied to a
15 peace officer, if the reserve officer is certified pursuant to RCW
16 43.101.095.

17 **Sec. 10.** RCW 43.101.115 and 2001 c 167 s 4 are each amended to
18 read as follows:

19 (1) A person denied a certification based upon dismissal or
20 withdrawal from a basic law enforcement academy (~~((for any reason not~~
21 ~~also involving discharge for disqualifying misconduct))~~ or basic
22 corrections academy under RCW 43.101.105(3)(a) is eligible for
23 readmission and certification upon meeting standards established in
24 rules of the commission, which rules may provide for probationary
25 terms on readmission.

26 (2) A person whose certification is denied or revoked based upon
27 prior administrative error of issuance, failure to cooperate, or
28 interference with an investigation is eligible for certification upon
29 meeting standards established in rules of the commission, (~~((rules~~
30 ~~which may))~~ which rules shall provide for a probationary period of
31 certification in the event of reinstatement of eligibility.

32 (3) A person whose certification is mandatorily denied or revoked
33 (~~((based upon a felony criminal conviction))~~ pursuant to RCW
34 43.101.105(2) is not eligible for certification at any time.

35 (4) A (~~((peace officer))~~ person whose certification is denied or
36 revoked (~~((based upon discharge for disqualifying misconduct, but not~~
37 ~~also based upon a felony criminal conviction,))~~ for reasons other
38 than provided in subsections (1) through (3) of this section may,
39 five years after the revocation or denial, petition the commission

1 for reinstatement of the certificate or for eligibility for
2 reinstatement. The commission (~~((shall))~~) may hold a hearing on the
3 petition to consider reinstatement, and the commission may allow
4 reinstatement based upon standards established in rules of the
5 commission. If the certificate is reinstated or eligibility for
6 certification is determined, the commission (~~((may))~~) shall establish a
7 probationary period of certification.

8 (5) A (~~((peace officer))~~) person whose certification is revoked
9 based solely upon a criminal conviction may petition the commission
10 for reinstatement immediately upon a final judicial reversal of the
11 conviction. The commission shall hold a hearing on request to
12 consider reinstatement, and the commission may allow reinstatement
13 based on standards established in rules of the commission. If the
14 certificate is reinstated or if eligibility for certification is
15 determined, the commission (~~((may))~~) shall establish a probationary
16 period of certification.

17 (6) The commission's rules and decisions regarding reinstatement
18 shall align with its responsibilities to enhance public trust and
19 confidence in the law enforcement profession and correctional system.

20 **Sec. 11.** RCW 43.101.135 and 2001 c 167 s 6 are each amended to
21 read as follows:

22 (1)(a) Upon (~~((termination))~~) separation of a peace officer or
23 corrections officer from an employing agency for any reason,
24 including termination, resignation, or retirement, the agency (~~((of~~
25 termination)) shall(~~((, within fifteen days of the termination,))~~
26 notify the commission within 15 days of the separation date on a
27 personnel action report form provided by the commission. (~~((The agency~~
28 of termination shall, upon))

29 (b) If the employer accepts an officer's resignation or
30 retirement in lieu of termination, the employing agency shall report
31 the reasons and rationale in the information provided to the
32 commission, including the findings from any internal or external
33 investigations into alleged misconduct.

34 (2) In addition to those circumstances under subsection (1) of
35 this section and whether or not disciplinary proceedings have been
36 concluded, the employing agency shall:

37 (a) Notify the commission within 15 days of learning of the
38 occurrence of any death or serious injury caused by the use of force
39 by an officer or any time an officer has been charged with a crime.

1 Employing agencies must have a policy requiring officers to report
2 any pending criminal charges and any conviction, plea, or other case
3 disposition immediately to their agency; and

4 (b) Notify the commission within 15 days of an initial
5 disciplinary decision by an employing agency for alleged behavior or
6 conduct by an officer that is noncriminal and may result in
7 revocation of certification pursuant to RCW 43.101.105.

8 (3) To better enable the commission to act swiftly and
9 comprehensively when misconduct has occurred that may undermine
10 public trust and confidence in law enforcement or the correctional
11 system, if the totality of the circumstances support a conclusion
12 that the officer resigned or retired in anticipation of discipline,
13 whether or not the misconduct was discovered at the time, and when
14 such discipline, if carried forward, would more likely than not have
15 led to discharge, or if the officer was laid off when disciplinary
16 investigation or action was imminent or pending which could have
17 resulted in the officer's suspension or discharge, the employing
18 agency shall conduct and complete the investigation and provide all
19 relevant information to the commission as if the officer were still
20 employed by the agency.

21 (4) Upon request of the commission, the employing agency shall
22 provide such additional documentation or information as the
23 commission deems necessary to determine whether the ((termination))
24 separation or event provides grounds for suspension or revocation
25 ((under RCW 43.101.105)).

26 (5) At its discretion, the commission may:

27 (a) Initiate decertification proceedings upon conclusion of any
28 investigation or disciplinary proceedings initiated by the employing
29 agency;

30 (b) Separately pursue action against the officer's certification
31 under RCW 43.101.105; or

32 (c) Wait to proceed until any investigation, disciplinary
33 proceedings, or appeals through the employing agency are final before
34 taking action. Where a decertification decision requires a finding
35 that the officer's conduct violated policy and the employing agency
36 has begun its investigation into the underlying event, the commission
37 shall await notification of a finding by the employing agency before
38 beginning the decertification process.

1 (6) No action or failure to act by an employing agency or
2 decision resulting from an appeal of that action precludes action by
3 the commission to suspend or revoke an officer's certification.

4 (7) An employing agency may not enter into any agreement or
5 contract with an officer, or union:

6 (a) Not to report conduct, delay reporting, or preclude
7 disclosure of any relevant information, including a promise not to
8 check the box on a commission notice that indicates the officer may
9 have committed misconduct, in exchange for allowing an officer to
10 resign or retire or for any other reason; or

11 (b) That allows the agency to destroy or remove any personnel
12 record while the officer is employed and for 10 years thereafter.
13 Such records must include all misconduct and equal employment
14 opportunity complaints, progressive discipline imposed including
15 written reprimands, supervisor coaching, suspensions, involuntary
16 transfers, investigatory files, and other disciplinary appeals and
17 litigation records.

18 (8) The commission shall maintain ((these—notice)) all
19 information provided pursuant to this section in a permanent file((7
20 subject to RCW 43.101.400)).

21 (9) In addition to disciplinary action authorized in RCW
22 43.101.105, the commission may impose a civil penalty not to exceed
23 \$10,000 for the failure by an officer or an employing agency to
24 timely and accurately report information pursuant to this section.

25 **Sec. 12.** RCW 43.101.145 and 2001 c 167 s 8 are each amended to
26 read as follows:

27 ~~((A law enforcement officer or duly authorized representative of~~
28 ~~a law enforcement agency))~~ (1) Any individual may submit a written
29 complaint to the commission ~~((charging))~~ stating that ~~((a peace))~~ an
30 officer's certificate should be denied, suspended, or revoked, and
31 specifying the grounds for the ~~((charge))~~ complaint. Filing a
32 complaint does not make a complainant a party to the commission's
33 action.

34 (2) The commission has sole discretion whether to investigate a
35 complaint, and the commission has sole discretion whether to
36 investigate matters relating to certification, denial of
37 certification, or revocation of certification on any other basis,
38 without restriction as to the source or the existence of a complaint.

1 All complaints must be resolved with a written determination,
2 regardless of the decision to investigate.

3 (3) The commission may initiate an investigation in any instance
4 where there is a pattern of complaints or other actions that may not
5 have resulted in a formal adjudication of wrongdoing, but when
6 considered together demonstrate conduct that would constitute a
7 violation of RCW 43.101.105 (2) or (3). The commission must consider
8 the agency's policies and procedures and the officer's job duties and
9 assignment in determining what constitutes a pattern.

10 (4) A person who files a complaint in good faith under this
11 section is immune from suit or any civil action related to the filing
12 or the contents of the complaint.

13 **Sec. 13.** RCW 43.101.155 and 2001 c 167 s 9 are each amended to
14 read as follows:

15 (1) If the commission determines, upon investigation, that there
16 is ~~((probable))~~ cause to believe that a peace officer's or
17 corrections officer's certification should be denied, suspended, or
18 revoked under RCW 43.101.105, the commission must prepare and serve
19 upon the officer a statement of charges. Service on the officer must
20 be by mail or by personal service on the officer unless the officer
21 has consented to service in some other manner, including electronic
22 notification. Notice of the charges must also be mailed to or
23 otherwise served upon the officer's agency of ~~((termination))~~
24 separation and any current ~~((law-enforcement))~~ agency employer. The
25 statement of charges must be accompanied by a notice that to receive
26 a hearing on the denial or revocation, the officer must, within
27 ~~((sixty))~~ 60 days of ~~((communication-of))~~ the statement of charges,
28 request a hearing before the hearings ~~((board))~~ panel appointed under
29 RCW 43.101.380. Failure of the officer to request a hearing within
30 the ~~((sixty-day))~~ 60-day period constitutes a default, whereupon the
31 commission may enter an order under RCW 34.05.440.

32 (2) If a hearing is requested, the officer is required to provide
33 an email address that constitutes the officer's legal address for
34 purposes of any subsequent communication from the commission. Unless
35 otherwise agreed to by the mutual agreement of the parties or for
36 good cause, within two weeks of receipt of the officer's request for
37 a hearing, the commission shall set a date ~~((of))~~ for the hearing,
38 which must be ~~((scheduled not earlier than ninety days nor later than~~
39 one hundred eighty days after communication of the statement of

1 ~~charges to the officer; the one hundred eighty-day period may be~~
2 ~~extended on mutual agreement of the parties or for good cause)) held~~
3 ~~within 90 days thereafter. ((The)) On the date the hearing is set,~~
4 ~~the~~ commission shall ~~((give))~~ transmit electronic and written notice
5 of the hearing ~~((at least twenty days prior to the hearing))~~ to the
6 officer, and provide public notice on the commission website,
7 specifying the time, date, and place of hearing.

8 **Sec. 14.** RCW 43.101.157 and 2006 c 22 s 2 are each amended to
9 read as follows:

10 (1) Tribal governments may voluntarily request certification for
11 their police officers. Tribal governments requesting certification
12 for their police officers must enter into a written agreement with
13 the commission. The agreement must require the tribal law enforcement
14 agency and its officers to comply with all of the requirements for
15 granting, denying, and revoking certification as those requirements
16 are applied to peace officers certified under this chapter and the
17 rules of the commission. To ensure clarity regarding the requirements
18 with which the tribal government and its police officers must comply
19 should the tribal government request certification, a tribal
20 government may first request consultation with the commission.

21 (2) Officers making application for certification as tribal
22 police officers shall meet the requirements of this chapter and the
23 rules of the commission as those requirements are applied to
24 certification of peace officers. Application for certification as a
25 tribal police officer shall be accepted and processed in the same
26 manner as those for certification of peace officers.

27 ~~((3) For purposes of certification, "tribal police officer"~~
28 ~~means any person employed and commissioned by a tribal government to~~
29 ~~enforce the criminal laws of that government.))~~

30 **Sec. 15.** RCW 43.101.230 and 1981 c 134 s 1 are each amended to
31 read as follows:

32 ~~((Indian tribe))~~ Tribal police officers and employees who are
33 engaged in law enforcement activities and who do not qualify as
34 "criminal justice personnel" or "law enforcement personnel" under RCW
35 43.101.010~~((, as now law or hereafter amended, may))~~ shall be
36 provided training under this chapter if: (a) The tribe is recognized
37 by the federal government, and (b) the tribe pays to the commission
38 the full cost of providing such training. The commission shall place

1 all money received under this section into the criminal justice
2 training account.

3 **Sec. 16.** RCW 43.101.390 and 2001 c 167 s 11 are each amended to
4 read as follows:

5 (1) The commission(~~((, its boards,))~~) and individuals acting on
6 behalf of the commission (~~((and its boards))~~) are immune from suit in
7 any civil or criminal action contesting or based upon proceedings or
8 other official acts performed in the course of their duties in the
9 administration and enforcement of this chapter.

10 (2) Without limiting the generality of the foregoing, the
11 commission and individuals acting on behalf of the commission are
12 immune from suit in any civil action based on the certification,
13 denial of certification, suspension, or other action regarding
14 decertification of peace officers, reserve officers, or corrections
15 officers.

16 **Sec. 17.** RCW 43.101.420 and 2009 c 19 s 1 are each amended to
17 read as follows:

18 (1) The commission shall offer a training session on personal
19 crisis recognition and crisis intervention services to criminal
20 justice, (~~((correctional personnel))~~) corrections, and other public
21 safety employees. The training shall be implemented by the commission
22 in consultation with appropriate public and private organizations
23 that have expertise in crisis referral services and in the underlying
24 conditions leading to the need for crisis referral.

25 (2) The training shall consist of a minimum of one hour of
26 classroom or internet instruction, and shall include instruction on
27 the following subjects:

28 (a) The description and underlying causes of problems that may
29 have an impact on the personal and professional lives of public
30 safety employees, including mental health issues, chemical
31 dependency, domestic violence, financial problems, and other personal
32 crises;

33 (b) Techniques by which public safety employees may recognize the
34 conditions listed in (a) of this subsection and understand the need
35 to seek assistance and obtain a referral for consultation and
36 possible treatment; and

37 (c) A listing of examples of public and private crisis referral
38 agencies available to public safety employees.

1 (3) The training developed by the commission shall be made
2 available by the commission to all employees of state and local
3 agencies that perform public safety duties. The commission may charge
4 a reasonable fee to defer the cost of making the training available.

5 **Sec. 18.** RCW 34.12.035 and 1984 c 141 s 6 are each amended to
6 read as follows:

7 The chief administrative law judge shall designate an
8 administrative law judge with subject matter expertise to serve, as
9 the need arises, as presiding officer in ((state)):

10 (1) State patrol disciplinary hearings conducted under RCW
11 43.43.090; and

12 (2) Decertification hearings conducted under RCW 43.101.380.

13 **Sec. 19.** RCW 40.14.070 and 2011 c 60 s 18 are each amended to
14 read as follows:

15 (1)(a) ((County)) Other than those records detailed in subsection
16 (4) of this section, county, municipal, and other local government
17 agencies may request authority to destroy noncurrent public records
18 having no further administrative or legal value by submitting to the
19 division of archives and records management lists of such records on
20 forms prepared by the division. The archivist, a representative
21 appointed by the state auditor, and a representative appointed by the
22 attorney general shall constitute a committee, known as the local
23 records committee, which shall review such lists and which may veto
24 the destruction of any or all items contained therein.

25 (b) A local government agency, as an alternative to submitting
26 lists, may elect to establish a records control program based on
27 recurring disposition schedules recommended by the agency to the
28 local records committee. The schedules are to be submitted on forms
29 provided by the division of archives and records management to the
30 local records committee, which may either veto, approve, or amend the
31 schedule. Approval of such schedule or amended schedule shall be by
32 unanimous vote of the local records committee. Upon such approval,
33 the schedule shall constitute authority for the local government
34 agency to destroy the records listed thereon, after the required
35 retention period, on a recurring basis until the schedule is either
36 amended or revised by the committee.

37 (2)(a) Except as otherwise provided by law, and other than the
38 law enforcement records detailed in subsection (4) of this section,

1 no public records shall be destroyed until approved for destruction
2 by the local records committee. Official public records shall not be
3 destroyed unless:

4 (i) The records are six or more years old;

5 (ii) The department of origin of the records has made a
6 satisfactory showing to the state records committee that the
7 retention of the records for a minimum of six years is both
8 unnecessary and uneconomical, particularly where lesser federal
9 retention periods for records generated by the state under federal
10 programs have been established; or

11 (iii) The originals of official public records less than six
12 years old have been copied or reproduced by any photographic,
13 photostatic, microfilm, miniature photographic, or other process
14 approved by the state archivist which accurately reproduces or forms
15 a durable medium for so reproducing the original.

16 An automatic reduction of retention periods from seven to six
17 years for official public records on record retention schedules
18 existing on June 10, 1982, shall not be made, but the same shall be
19 reviewed individually by the local records committee for approval or
20 disapproval of the change to a retention period of six years.

21 The state archivist may furnish appropriate information,
22 suggestions, and guidelines to local government agencies for their
23 assistance in the preparation of lists and schedules or any other
24 matter relating to the retention, preservation, or destruction of
25 records under this chapter. The local records committee may adopt
26 appropriate regulations establishing procedures to be followed in
27 such matters.

28 Records of county, municipal, or other local government agencies,
29 designated by the archivist as of primarily historical interest, may
30 be transferred to a recognized depository agency.

31 (b)(i) Records of investigative reports prepared by any state,
32 county, municipal, or other law enforcement agency pertaining to sex
33 offenders contained in chapter 9A.44 RCW or sexually violent offenses
34 as defined in RCW 71.09.020 that are not required in the current
35 operation of the law enforcement agency or for pending judicial
36 proceedings shall, following the expiration of the applicable
37 schedule of the law enforcement agency's retention of the records, be
38 transferred to the Washington association of sheriffs and police
39 chiefs for permanent electronic retention and retrieval. Upon

1 electronic retention of any document, the association shall be
2 permitted to destroy the paper copy of the document.

3 (ii) Any sealed record transferred to the Washington association
4 of sheriffs and police chiefs for permanent electronic retention and
5 retrieval, including records sealed after transfer, shall be
6 electronically retained in such a way that the record is clearly
7 marked as sealed.

8 (iii) The Washington association of sheriffs and police chiefs
9 shall be permitted to destroy both the paper copy and electronic
10 record of any offender verified as deceased.

11 (c) Any record transferred to the Washington association of
12 sheriffs and police chiefs pursuant to (b) of this subsection shall
13 be deemed to no longer constitute a public record pursuant to RCW
14 42.56.010 and shall be exempt from public disclosure. Such records
15 shall be disseminated only to criminal justice agencies as defined in
16 RCW 10.97.030 for the purpose of determining if a sex offender met
17 the criteria of a sexually violent predator as defined in chapter
18 71.09 RCW and the end-of-sentence review committee as defined by RCW
19 72.09.345 for the purpose of fulfilling its duties under RCW
20 71.09.025 and 9.95.420.

21 Electronic records marked as sealed shall only be accessible by
22 criminal justice agencies as defined in RCW 10.97.030 who would
23 otherwise have access to a sealed paper copy of the document, the
24 end-of-sentence review committee as defined by RCW 72.09.345 for the
25 purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420,
26 and the system administrator for the purposes of system
27 administration and maintenance.

28 (3) Except as otherwise provided by law, county, municipal, and
29 other local government agencies may, as an alternative to destroying
30 noncurrent public records having no further administrative or legal
31 value, donate the public records to the state library, local library,
32 historical society, genealogical society, or similar society or
33 organization.

34 Public records may not be donated under this subsection unless:

35 (a) The records are seventy years old or more;

36 (b) The local records committee has approved the destruction of
37 the public records; and

38 (c) The state archivist has determined that the public records
39 have no historic interest.

1 (4) Personnel records for any peace officer or corrections
2 officer must be retained for the duration of the officer's employment
3 and a minimum of 10 years thereafter. Such records include all
4 misconduct and equal employment opportunity complaints, progressive
5 discipline imposed including written reprimands, supervisor coaching,
6 suspensions, involuntary transfers, other disciplinary appeals and
7 litigation records, and any other records needed to comply with the
8 requirements set forth in RCW 43.101.095 and 43.101.135.

9 **Sec. 20.** RCW 43.101.380 and 2020 c 119 s 10 are each amended to
10 read as follows:

11 (1) The procedures governing adjudicative proceedings before
12 agencies under chapter 34.05 RCW, the administrative procedure act,
13 govern hearings before the commission and govern all other actions
14 before the commission unless otherwise provided in this chapter. The
15 standard of proof in actions before the commission is ~~((clear,~~
16 ~~eogent, and convincing))~~ a preponderance of the evidence.

17 (2) In all hearings requested under RCW 43.101.155 ~~((or~~
18 ~~43.101.156))~~, an administrative law judge appointed under chapter
19 34.12 RCW shall be the presiding officer, shall make all necessary
20 rulings in the course of the hearing, and shall issue a proposed
21 recommendation, but is not entitled to vote. In addition, a five-
22 member hearings panel shall ~~((both))~~ hear the case and make the
23 commission's final administrative decision. ~~((Members of the~~
24 ~~commission may, but need not, be appointed to the hearings panels.))~~

25 (3) The commission shall appoint ~~((as follows two or more~~
26 ~~panels))~~ a panel to hear certification actions as follows:

27 (a) When a hearing is requested in relation to a certification
28 action of a Washington peace officer ~~((who is not a peace officer of~~
29 ~~the Washington state patrol))~~, the commission shall appoint to the
30 panel: (i) One police chief~~((; (ii) one))~~ or sheriff from an agency
31 not a current or past employer of the peace officer; ~~(((iii) two))~~
32 (ii) one certified Washington peace officer~~((s))~~ who ~~((are))~~ is at or
33 below the level of first line supervisor~~((, one of whom is from a~~
34 ~~city or county law enforcement agency,))~~ and who ~~((have))~~ has at
35 least ten years' experience as a peace officer~~((s)); ((and (iv) one~~
36 ~~person who is not currently a peace officer and who represents a~~
37 ~~community college or four-year college or university))~~ (iii) one
38 civilian member of the commission as appointed under RCW
39 43.101.030(1) (f) and (h) through (j); (iv) one member of the public

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

5 ~~(b) ((When a hearing is requested in relation to a certification~~
6 ~~action of a peace officer of the Washington state patrol, the~~
7 ~~commission shall appoint to the panel: (i) Either one police chief or~~
8 ~~one sheriff; (ii) one administrator of the state patrol; (iii) one~~
9 ~~certified Washington peace officer who is at or below the level of~~
10 ~~first line supervisor, who is not a state patrol officer, and who has~~
11 ~~at least ten years' experience as a peace officer; (iv) one state~~
12 ~~patrol officer who is at or below the level of first line supervisor,~~
13 ~~and who has at least ten years' experience as a peace officer; and~~
14 ~~(v) one person who is not currently a peace officer and who~~
15 ~~represents a community college or four-year college or university.~~

16 ~~(e))~~ When a hearing is requested in relation to a certification
17 action of a Washington corrections officer, the commission shall
18 appoint to the panel: (i) ~~((Two heads of))~~ A person who heads either
19 a city or county corrections agency or facility or of a Washington
20 state department of corrections facility; (ii) ~~((two))~~ one
21 corrections officer((s)) who ((are)) is at or below the level of
22 first line supervisor(~~(, who are from city, county, or state~~
23 ~~corrections agencies,))~~ and who ~~((have))~~ has at least ten years'
24 experience as a corrections officer((s)); (iii) one civilian member
25 of the commission as appointed under RCW 43.101.030(1) (f) and (h)
26 through (j); (iv) one member of the public who is not a prosecutor,
27 defense attorney, judge, or law enforcement officer; and ((-iii))
28 (v) one person with expertise and background in police accountability
29 who is not ((currently)) a current or former peace officer or
30 corrections officer ((and who represents a community college or four-
31 year college or university)).

32 ~~((-d))~~ (c) When a hearing is requested in relation to a
33 certification action of a tribal police officer, the commission shall
34 appoint to the panel (i) ~~((either one police chief or one sheriff;~~
35 ~~(-ii))~~ one tribal police chief; ((-iii) one certified Washington
36 peace officer who is at or below the level of first line supervisor,
37 and who has at least ten years' experience as a peace officer; (iv))
38 (ii) one tribal police officer who is at or below the level of first
39 line supervisor, and who has at least ten years' experience as a
40 peace officer; ((and (v) one person who is not currently a peace

~~officer and who represents a community college or four-year college or university)) (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.~~

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

~~((3) Where the charge upon which revocation or denial is based is that a peace officer or corrections officer was "discharged for disqualifying misconduct," and the discharge is "final," within the meaning of RCW 43.101.105(1)(d) or 43.101.106(4), and the officer received a civil service hearing or arbitration hearing culminating in an affirming decision following separation from service by the employer, the hearings panel may revoke or deny certification if the hearings panel determines that the discharge occurred and was based on disqualifying misconduct;))~~ (4) In decertification matters where there was a due process hearing or a disciplinary appeals hearing following an investigation by a law enforcement agency, or a criminal hearing regarding the alleged misconduct, the hearings panel need not redetermine the underlying facts but may make ~~((this))~~ its determination based solely on review of the records and decision relating to ~~((the employment separation))~~ those proceedings and any investigative or summary materials from the administrative law judge, legal counsel, and commission staff. However, the hearings panel may, in its discretion, consider additional evidence to determine whether ~~((such a discharge))~~ misconduct occurred ~~((and was based on such disqualifying misconduct))~~. The hearings panel shall, upon written request by the subject peace officer or corrections officer, allow the peace officer or corrections officer to present additional evidence of extenuating circumstances.

~~((Where the charge upon which revocation or denial of certification is based is that a peace officer or corrections officer "has been convicted at any time of a felony offense" within the meaning of RCW 43.101.105(1)(c) or 43.101.106(3), the hearings panel shall revoke or deny certification if it determines that the peace~~

~~officer or corrections officer was convicted of a felony. The hearings panel need not redetermine the underlying facts but may make this determination based solely on review of the records and decision relating to the criminal proceeding. However, the hearings panel shall, upon the panel's determination of relevancy, consider additional evidence to determine whether the peace officer or corrections officer was convicted of a felony.~~

~~Where the charge upon which revocation or denial is based is under RCW 43.101.105(1) (a), (b), (c), or (f) or 43.101.106 (1), (2), (5), or (6), the hearings panel shall determine the underlying facts relating to the charge upon which revocation or denial of certification is based.~~

~~(4))~~ (5) The commission is authorized to proceed regardless of whether an arbitrator or other appellate decision maker overturns the discipline imposed by the officer's employing agency or whether the agency settles an appeal. No action or failure to act by a law enforcement agency or corrections agency or decision resulting from an appeal of that action precludes action by the commission to suspend or revoke an officer's certificate, to place on probation, or to require remedial training for the officer.

(6) The hearings, but not the deliberations of the hearings panel, are open to the public. The transcripts, admitted evidence, and written decisions of the hearings panel on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.

(7) Summary records of hearing dispositions must be made available on an annual basis on a public website.

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

Sec. 21. RCW 43.101.400 and 2020 c 119 s 12 are each amended to read as follows:

(1) Except as provided under subsection (2) of this section, ~~((the following records of the commission are confidential and exempt from public disclosure: (a) The contents of personnel action reports filed under RCW 43.101.135 or 43.101.136; (b))~~ all files, papers, and other information obtained by the commission as part of an initial background investigation pursuant to RCW 43.101.095 ~~((5) or 43.101.096; and (c) all investigative files of the commission compiled in carrying out the responsibilities of the commission under~~

~~this chapter))~~ (2) and (4) are confidential and exempt from public disclosure. Such records are not subject to public disclosure, subpoena, or discovery proceedings in any civil action, except as provided in ~~((subsection (5) of this section))~~ RCW 43.101.380(6) or which become part of the record in a suspension or decertification matter.

(2) Records which are otherwise confidential and exempt under subsection (1) of this section may be reviewed and copied: (a) By the officer involved or the officer's counsel or authorized representative, who may review the officer's file and may submit any additional exculpatory or explanatory evidence, statements, or other information, any of which must be included in the file; (b) by a duly authorized representative of (i) the agency of termination, or (ii) a current employing law enforcement or corrections agency, which may review and copy its employee-officer's file; or (c) by a representative of or investigator for the commission.

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

~~(4) ((Upon a determination that a complaint is without merit, that a personnel action report filed under RCW 43.101.135 does not merit action by the commission, or that a matter otherwise investigated by the commission does not merit action, the commission shall purge records addressed in subsection (1) of this section.~~

~~(5) The hearings, but not the deliberations, of the hearings board are open to the public. The transcripts, admitted evidence, and written decisions of the hearings board on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.~~

~~(6))~~ The commission shall maintain a database that is publicly searchable, machine readable, and exportable, and accompanied by a complete, plain-language data dictionary describing the names of officers and employing agencies, all conduct investigated, certifications denied, notices and accompanying information provided

1 by law enforcement or correctional agencies, including the reasons
2 for separation from the agency, decertification or suspension actions
3 pursued, and final disposition and the reasons therefor for at least
4 30 years after final disposition of each incident. The dates for each
5 material step of the process must be included. Any decertification
6 must be reported to the national decertification index.

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

11 NEW SECTION. Sec. 22. A new section is added to chapter 43.101
12 RCW to read as follows:

13 The commission must develop policies, procedures, and rules to
14 ensure that the goals of this act are fully implemented as intended
15 and in a timely manner, and to provide appropriate clarity to
16 affected persons and entities as to how the commission will process
17 complaints, investigations, and hearings, and impose sanctions,
18 related to officer decertification. The commission must work in
19 collaboration with interested parties and entities in developing the
20 policies, procedures, and rules, and must take into account issues
21 regarding when and how the commission may appropriately exercise
22 authority in relation to simultaneous investigations and disciplinary
23 processes, and how the commission may exercise available remedies in
24 a manner that is appropriate to case circumstances and consistent
25 with the goals of this act. The policies, procedures, and rules must
26 be completed by June 30, 2022.

27 **Sec. 23.** RCW 41.56.905 and 1983 c 287 s 5 are each amended to
28 read as follows:

29 The provisions of this chapter are intended to be additional to
30 other remedies and shall be liberally construed to accomplish their
31 purpose. Except as provided in RCW 53.18.015, 43.101.095, and
32 43.101.135, if any provision of this chapter conflicts with any other
33 statute, ordinance, rule or regulation of any public employer, the
34 provisions of this chapter shall control.

35 **Sec. 24.** RCW 49.44.200 and 2013 c 330 s 1 are each amended to
36 read as follows:

37 (1) An employer may not:

1 (a) Request, require, or otherwise coerce an employee or
2 applicant to disclose login information for the employee's or
3 applicant's personal social networking account;

4 (b) Request, require, or otherwise coerce an employee or
5 applicant to access his or her personal social networking account in
6 the employer's presence in a manner that enables the employer to
7 observe the contents of the account;

8 (c) Compel or coerce an employee or applicant to add a person,
9 including the employer, to the list of contacts associated with the
10 employee's or applicant's personal social networking account;

11 (d) Request, require, or cause an employee or applicant to alter
12 the settings on his or her personal social networking account that
13 affect a third party's ability to view the contents of the account;
14 or

15 (e) Take adverse action against an employee or applicant because
16 the employee or applicant refuses to disclose his or her login
17 information, access his or her personal social networking account in
18 the employer's presence, add a person to the list of contacts
19 associated with his or her personal social networking account, or
20 alter the settings on his or her personal social networking account
21 that affect a third party's ability to view the contents of the
22 account.

23 (2) This section does not apply to an employer's request or
24 requirement that an employee share content from his or her personal
25 social networking account if the following conditions are met:

26 (a) The employer requests or requires the content to make a
27 factual determination in the course of conducting an investigation;

28 (b) The employer undertakes the investigation in response to
29 receipt of information about the employee's activity on his or her
30 personal social networking account;

31 (c) The purpose of the investigation is to: (i) Ensure compliance
32 with applicable laws, regulatory requirements, or prohibitions
33 against work-related employee misconduct; or (ii) investigate an
34 allegation of unauthorized transfer of an employer's proprietary
35 information, confidential information, or financial data to the
36 employee's personal social networking account; and

37 (d) The employer does not request or require the employee to
38 provide his or her login information.

39 (3) This section does not:

1 (a) Apply to a social network, intranet, or other technology
2 platform that is intended primarily to facilitate work-related
3 information exchange, collaboration, or communication by employees or
4 other workers;

5 (b) Prohibit an employer from requesting or requiring an employee
6 to disclose login information for access to: (i) An account or
7 service provided by virtue of the employee's employment relationship
8 with the employer; or (ii) an electronic communications device or
9 online account paid for or supplied by the employer;

10 (c) Prohibit an employer from enforcing existing personnel
11 policies that do not conflict with this section; (~~or~~)

12 (d) Prevent an employer from complying with the requirements of
13 state or federal statutes, rules or regulations, case law, or rules
14 of self-regulatory organizations; or

15 (e) Apply to a background investigation in accordance with RCW
16 43.101.095. However, the officer must not be required to provide
17 login information.

18 (4) If, through the use of an employer-provided electronic
19 communications device or an electronic device or program that
20 monitors an employer's network, an employer inadvertently receives an
21 employee's login information, the employer is not liable for
22 possessing the information but may not use the login information to
23 access the employee's personal social networking account.

24 (5) For the purposes of this section and RCW 49.44.205:

25 (a) "Adverse action" means: Discharging, disciplining, or
26 otherwise penalizing an employee; threatening to discharge,
27 discipline, or otherwise penalize an employee; and failing or
28 refusing to hire an applicant.

29 (b) "Applicant" means an applicant for employment.

30 (c) "Electronic communications device" means a device that uses
31 electronic signals to create, transmit, and receive information,
32 including computers, telephones, personal digital assistants, and
33 other similar devices.

34 (d) "Employer" means any person, firm, corporation, partnership,
35 business trust, legal representative, or other business entity which
36 engages in any business, industry, profession, or other activity in
37 this state and employs one or more employees, and includes the state,
38 any state institution, state agency, political subdivisions of the
39 state, and any municipal corporation or quasi-municipal corporation.

1 "Employer" includes an agent, a representative, or a designee of the
2 employer.

3 (e) "Login information" means a user name and password, a
4 password, or other means of authentication that protects access to a
5 personal social networking account.

6 **Sec. 25.** RCW 41.06.040 and 1969 ex.s. c 36 s 22 are each amended
7 to read as follows:

8 The provisions of this chapter apply to:

9 (1) Each board, commission or other multimember body, including,
10 but not limited to, those consisting in whole or in part of elective
11 officers;

12 (2) Each agency, and each employee and position therein, not
13 expressly excluded or exempted under the provisions of RCW 41.06.070
14 or otherwise excluded or exempted in this chapter.

15 NEW SECTION. **Sec. 26.** A new section is added to chapter 41.06
16 RCW to read as follows:

17 In addition to the exemptions set forth in RCW 41.06.070, the
18 provisions of this chapter do not apply in the Washington state
19 criminal justice training commission to two confidential secretaries
20 involved in managing the confidential records under RCW 43.101.135
21 and 43.101.400.

22 NEW SECTION. **Sec. 27.** No later than December 1, 2022, the
23 criminal justice training commission shall submit a written report to
24 the governor and the appropriate committees of the legislature
25 detailing progress of implementation of this act.

26 NEW SECTION. **Sec. 28.** No later than December 1, 2021, the
27 criminal justice training commission shall submit a written report to
28 the governor and the appropriate committees of the legislature
29 detailing the following:

30 (1) The average total number of peace officers each year who must
31 complete the basic law enforcement academy training and the
32 certification process without delay in order to begin work as full-
33 time officers;

34 (2) The other categories of officers, and the average total
35 number of such officers, who must complete the basic law enforcement
36 academy training, the certification process, or both, prior to being

1 authorized to enforce the criminal laws of this state on a part-time,
2 as called-upon, or volunteer basis;

3 (3) Recommendations for amendments to update and align
4 definitions and categorization of types officers as set forth in
5 statute and administrative rule, to eliminate ambiguity or
6 inconsistencies and provide better clarity for law enforcement
7 agencies, the criminal justice training commission, and the public as
8 to the different types of officers, their authority, and their
9 obligations to fulfill the requirements of chapter 43.101 RCW and
10 other chapters;

11 (4) The current backlog for admission to the basic law
12 enforcement academy and the approach taken by the criminal justice
13 training commission to prioritize admission to training when there is
14 insufficient capacity to meet the demand;

15 (5) The current and projected need for the number of basic law
16 enforcement academy classes in order to meet the requirements of
17 chapter 43.101 RCW and other chapters, and recommended funding to
18 meet the projected need; and

19 (6) Any other related recommendations.

20 NEW SECTION. **Sec. 29.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 43.101.096 (Corrections officer certification) and 2020 c
23 119 s 3;

24 (2) RCW 43.101.106 (Denial or revocation of corrections officer
25 certification) and 2020 c 119 s 4;

26 (3) RCW 43.101.116 (Denial or revocation of corrections officer
27 certification—Readmission to academy—Reinstatement) and 2020 c 119 s
28 5;

29 (4) RCW 43.101.136 (Termination of corrections officer—
30 Notification to commission) and 2020 c 119 s 7;

31 (5) RCW 43.101.146 (Written complaint by corrections officer or
32 corrections agency to deny or revoke corrections officer
33 certification—Immunity of complainant) and 2020 c 119 s 8;

34 (6) RCW 43.101.156 (Denial or revocation of corrections officer
35 certification—Statement of charges—Notice—Hearing) and 2020 c 119 s
36 9; and

37 (7) RCW 43.101.180 (Priorities) and 1981 c 136 s 27 & 1974 ex.s.
38 c 94 s 18.

1 NEW SECTION. **Sec. 30.** A new section is added to chapter 10.93
2 RCW to read as follows:

3 A general authority Washington law enforcement agency or limited
4 authority Washington law enforcement agency is prohibited from
5 considering the application for any office, place, position, or
6 employment within the agency if the applicant has not provided the
7 agency a document, voluntarily and knowingly signed by the applicant,
8 that authorizes each prior employer to release any and all
9 information relating to the applicant's employment, and further
10 releasing and holding harmless the agency and each prior employer
11 from any and all liability that may potentially result from the
12 release and use of such information provided.

13 **Sec. 31.** RCW 43.101.200 and 2019 c 415 s 969 are each amended to
14 read as follows:

15 (1) All law enforcement personnel, except volunteers, and reserve
16 officers whether paid or unpaid, initially employed on or after
17 January 1, 1978, shall engage in basic law enforcement training which
18 complies with standards adopted by the commission pursuant to RCW
19 43.101.080. For personnel initially employed before January 1, 1990,
20 such training shall be successfully completed during the first
21 fifteen months of employment of such personnel unless otherwise
22 extended or waived by the commission and shall be requisite to the
23 continuation of such employment. Personnel initially employed on or
24 after January 1, 1990, shall commence basic training during the first
25 six months of employment unless the basic training requirement is
26 otherwise waived or extended by the commission. Successful completion
27 of basic training is requisite to the continuation of employment of
28 such personnel initially employed on or after January 1, 1990.

29 (2) Except as (~~otherwise~~) provided in (~~this chapter~~) RCW
30 43.101.170, the commission shall provide the aforementioned training
31 (~~together with~~) and shall have the sole authority to do so. The
32 commission shall provide necessary facilities, supplies, materials,
33 and the board and room of noncommuting attendees for seven days per
34 week, except during the 2017-2019 and 2019-2021 fiscal biennia when
35 the employing, county, city, or state law enforcement agency shall
36 reimburse the commission for twenty-five percent of the cost of
37 training its personnel. Additionally, to the extent funds are
38 provided for this purpose, the commission shall reimburse to
39 participating law enforcement agencies with ten or less full-time

1 commissioned patrol officers the cost of temporary replacement of
2 each officer who is enrolled in basic law enforcement training:
3 PROVIDED, That such reimbursement shall include only the actual cost
4 of temporary replacement not to exceed the total amount of salary and
5 benefits received by the replaced officer during his or her training
6 period.

Passed by the Senate April 21, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 18, 2021.

Filed in Office of Secretary of State May 18, 2021.

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