

HOUSE BILL NO. 514

INTRODUCED BY M. MCNALLY

BY REQUEST OF THE ATTORNEY GENERAL

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6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO PEACE OFFICER

7 QUALIFICATIONS AND CERTIFICATION BY THE MONTANA PUBLIC SAFETY OFFICER STANDARDS AND

8 TRAINING COUNCIL; ALLOWING MENTAL HEALTH PROFESSIONALS ACTING WITHIN THE SCOPE OF

9 THEIR LICENSURE TO EVALUATE THE MENTAL HEALTH OF PEACE OFFICER APPLICANTS; ALLOWING

10 THE USE OF A STANDARDIZED MENTAL HEALTH EVALUATION INSTRUMENT UNDER SPECIFIED

11 CONDITIONS IN LIEU OF A MENTAL HEALTH EXAMINATION; REQUIRING THE MONTANA PUBLIC SAFETY

12 OFFICERS STANDARDS AND TRAINING COUNCIL TO ISSUE A BASIC CERTIFICATE TO A PERSON WHO

13 HAS SATISFIED ALL THE BASIC REQUIREMENTS; AND AMENDING SECTION 7-32-303, MCA."

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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17 **Section 1.** Section 7-32-303, MCA, is amended to read:

18 **"7-32-303. Peace officer employment, education, and certification standards -- suspension or**

19 **revocation -- penalty.** (1) For purposes of this section, unless the context clearly indicates otherwise, "peace

20 officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park

21 ranger, campus security officer, or airport police officer.

22 (2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by

23 law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the

24 following qualifications plus any additional qualifying standards for employment promulgated by the Montana

25 public safety officer standards and training council established in 2-15-2029:

- 26 (a) be a citizen of the United States;
- 27 (b) be at least 18 years of age;
- 28 (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any
- 29 criminal record;
- 30 (d) not have been convicted of a crime for which the person could have been imprisoned in a federal or

1 state penitentiary;

2 (e) be of good moral character, as determined by a thorough background investigation;

3 (f) be a high school graduate or have passed the general educational development test and been issued
4 an equivalency certificate by the superintendent of public instruction or by an appropriate issuing agency of
5 another state or of the federal government;

6 (g) (i) be examined by a licensed physician, who is and a person licensed under Title 37 to do mental
7 health evaluations. For purposes of this subsection (2)(g)(i), the physician may not be the applicant's personal
8 physician; and the person licensed to do a mental health evaluation may not be the applicant's personal mental
9 health professional. The physician and mental health professional may be the same person and must be
10 appointed by the employing authority to determine if the applicant is free from any mental or physical condition
11 that might adversely affect performance by the applicant of the duties of a peace officer;

12 (ii) satisfactorily complete the physical examination required by subsection (2)(g)(i) and a standardized
13 mental health evaluation instrument. Satisfactory completion of a standardized mental health evaluation
14 instrument means that:

15 (A) the instrument was determined by the employing authority to be sufficient to examine the applicant
16 for any mental health condition that might adversely affect the applicant's performance of duties as a peace
17 officer;

18 (B) the instrument was scored by a mental health professional licensed in any state acting within the
19 scope of the professional's licensure; and

20 (C) the mental health professional has submitted a report to the employing agency finding that, based
21 on the results of the standardized instrument, the applicant is free from any mental health condition that might
22 adversely affect the applicant's performance of duties as a peace officer.

23 (h) successfully complete an oral examination conducted by the appointing authority or its designated
24 representative to demonstrate the possession of communication skills, temperament, motivation, and other
25 characteristics necessary to the accomplishment of the duties and functions of a peace officer; and

26 (i) possess or be eligible for a valid Montana driver's license.

27 (3) At the time of appointment, a peace officer shall take a formal oath of office.

28 (4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written
29 notice of the event must be given to the Montana public safety officer standards and training council by the
30 employing authority.

1 (5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to
2 cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the
3 initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer
4 standards and training council. Any peace officer appointed after September 30, 1983, who fails to meet the
5 minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this
6 subsection (5)(a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

7 (b) A peace officer who has been issued a basic certificate by the Montana public safety officer
8 standards and training council and whose last date of employment as a peace officer was less than 36 months
9 prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic
10 educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer
11 was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace
12 officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

13 (c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a basic peace
14 officer's course that is taught by a federal, state, or United States military law enforcement agency and that is
15 reviewed and approved by the Montana public safety officer standards and training council as equivalent with
16 current training in Montana and whose last date of employment as a peace officer or member of the military law
17 enforcement was less than 60 months prior to the date of present appointment as a peace officer may, within 1
18 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy
19 the basic educational requirements by successfully completing a basic equivalency course administered by the
20 Montana law enforcement academy. The prior employment of a member of the military law enforcement must
21 be reviewed and approved by the Montana public safety officer standards and training council. If the peace officer
22 fails the basic equivalency course, the peace officer shall complete the appropriate basic equivalency course
23 within 120 days of the date of the failure of the equivalency course.

24 (6) The Montana public safety officer standards and training council may extend the 1-year time
25 requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing
26 authority of the officer. The application must explain the circumstances that make the extension necessary.
27 Factors that the council may consider in granting or denying the extension include but are not limited to illness
28 of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the
29 basic equivalency course, and an unreasonable shortage of personnel within the department. The council may
30 not grant an extension to exceed 180 days.

