

HOUSE BILL NO. 100

INTRODUCED BY F. GARNER

BY REQUEST OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DUTIES OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL RELATED TO CERTIFICATION OF PUBLIC SAFETY OFFICERS; REMOVING REFERENCES TO THE GENERAL EDUCATIONAL DEVELOPMENT TEST; ALLOWING CERTAIN MENTAL HEALTH PROFESSIONALS TO EXAMINE AND EVALUATE THE MENTAL HEALTH OF A PEACE OFFICER CANDIDATE; ALLOWING SUBSTITUTION OF A STANDARDIZED MENTAL HEALTH EVALUATION INSTRUMENT FOR THE MENTAL HEALTH EXAMINATION; REVISING CERTAIN COURSE REQUIREMENTS; REMOVING APPLICATION REQUIREMENTS BEFORE THE COUNCIL ISSUES A CERTIFICATE TO A PUBLIC SAFETY OFFICER WHO MEETS CERTAIN EDUCATIONAL AND PROBATIONARY REQUIREMENTS; ESTABLISHING THE COUNCIL AS A CRIMINAL JUSTICE AGENCY FOR THE PURPOSES OF THE MONTANA CRIMINAL JUSTICE INFORMATION ACT; AMENDING SECTIONS 7-32-303 AND 44-4-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

"7-32-303. Peace officer employment, education, and certification standards -- suspension or revocation -- penalty. (1) For purposes of this section, unless the context clearly indicates otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

(2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029:

(a) be a citizen of the United States;

(b) be at least 18 years of age;

(c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any

1 criminal record;

2 (d) not have been convicted of a crime for which the person could have been imprisoned in a federal or
3 state penitentiary;

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

5 (f) be a high school graduate or have ~~passed the general educational development test and been issued~~
6 ~~an equivalency certificate~~ A HIGH SCHOOL EQUIVALENCY DIPLOMA by the superintendent of public instruction or by
7 an appropriate issuing agency of another state or of the federal government;

8 (g) (i) be examined by a licensed physician or, for the purposes of a mental health evaluation, a person
9 who is licensed by the state under Title 37 and acting within the scope of the person's licensure, who is not the
10 applicant's personal physician or licensed mental health professional, appointed by the employing authority to
11 determine if the applicant is free from any mental or physical condition that might adversely affect performance
12 by the applicant of the duties of a peace officer; or

13 (ii) (A) satisfactorily complete the physical examination required by subsection (2)(g)(i); and
14 (B) complete a standardized mental health evaluation instrument determined by the employing authority
15 to be sufficient to examine for any mental health conditions that might adversely affect the performance by the
16 applicant of the duties of a peace officer if the instrument is scored by a mental health professional acting within
17 the scope of licensure by any state and the mental health professional finds that the applicant is free of any such
18 mental health condition;

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

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

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

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

27 (5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to
28 cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the
29 initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer
30 standards and training council. Any peace officer appointed after September 30, 1983, who fails to meet the

1 minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this
2 subsection (5)(a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.

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

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

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

27 (7) A peace officer who has successfully met the employment standards and qualifications and the
28 educational requirements of this section and who has completed a 1-year probationary term of employment must;
29 ~~upon application to the Montana public safety officer standards and training council;~~ be issued a basic certificate
30 by the council; certifying that the peace officer has met all the basic qualifying peace officer standards of this

1 state.

2 (8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center
3 administrator has been revoked or suspended by the Montana public safety officer standards and training council
4 to act as a peace officer, detention officer, or detention center administrator. A person convicted of violating this
5 subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the
6 county jail or by a fine not to exceed \$500, or both."

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8 **Section 2.** Section 44-4-403, MCA, is amended to read:

9 **"44-4-403. Council duties -- determinations -- appeals.** (1) The council shall:

- 10 (a) establish basic and advanced qualification and training standards for employment;
11 (b) conduct and approve training; and
12 (c) provide for the certification or recertification of public safety officers and for the suspension or
13 revocation of certification of public safety officers.

14 (2) The council may waive or modify a qualification or training standard for good cause.

15 (3) A person who has been denied certification or recertification or whose certification or recertification
16 has been suspended or revoked is entitled to a contested case hearing before the council pursuant to Title 2,
17 chapter 4, part 6, except that a decision by the council may be appealed to the board of crime control, as provided
18 for in 44-4-301. A decision of the board of crime control is a final agency decision subject to judicial review.

19 (4) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose
20 of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding public safety
21 officers in order to provide for the certification or recertification of a public safety officer and for the suspension
22 or revocation of certification of a public safety officer. The council may not record or retain any confidential
23 criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act
24 of 1979 provided for in Title 44, chapter 5."

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26 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

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