



AN ACT REVISING LAWS RELATED TO REVOKING PEACE OFFICER CERTIFICATION; PROVIDING THAT A PEACE OFFICER'S CERTIFICATION MAY NOT BE REVOKED SOLELY ON THE BASIS OF A MENTAL ILLNESS; AND AMENDING SECTION 44-4-403, MCA.

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

**Section 1.** Section 44-4-403, MCA, is amended to read:

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

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

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

(3) The council may not revoke a public safety officer's certification solely on the basis of a public safety officer's mental illness unless, due to the mental illness, a physical or mental condition exists that, even with reasonable accommodation:

- (a) substantially limits the officer's ability to perform the essential duties of a public safety officer; or
- (b) poses a direct threat to the health and safety of the public or fellow public safety officers.

~~(3)~~(4) A person who has been denied certification or recertification or whose certification or recertification has been suspended or revoked is entitled to a contested case hearing before the council pursuant to Title 2, chapter 4, part 6. A decision of the council is a final agency decision subject to judicial review.

~~(4)~~(5) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding

public safety officers in order to provide for the certification or recertification of a public safety officer and for the suspension or revocation of certification of a public safety officer. The council may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5."

- END -

I hereby certify that the within bill,  
HB 802, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2023.

HOUSE BILL NO. 802

INTRODUCED BY S. KERNS

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