

HOUSE BILL NO. 97

INTRODUCED BY F. GARNER

BY REQUEST OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL LAWS; REVISING THE DEFINITION OF "PUBLIC SAFETY OFFICER"; REVISING COUNCIL DUTIES AND RULEMAKING AUTHORITY; ALLOWING THE COUNCIL TO DELEGATE CERTAIN RESPONSIBILITIES TO STAFF; REVISING LAWS RELATED TO THE SUSPENSION OR REVOCATION OF A PUBLIC SAFETY OFFICER'S CERTIFICATION; REVISING DUTIES OF APPOINTING AUTHORITIES; PROVIDING A PENALTY FOR A VIOLATION OF CERTAIN PUBLIC SAFETY OFFICER CERTIFICATION REQUIREMENTS; AND AMENDING SECTIONS 44-4-401, 44-4-403, AND 44-4-404, MCA."

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

**Section 1.** Section 44-4-401, MCA, is amended to read:

**"44-4-401. Definitions.** For the purposes of this part, the following definitions apply:

(1) "Council" means the Montana public safety officer standards and training council established in 2-15-2029.

(2) "Public safety officer" means:

(a) a corrections officer who is employed by the department of corrections, established in 2-15-2301, and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a state correctional facility for adults or juveniles;

(b) a detention officer who is employed by a county and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a detention center, as defined in 7-32-2241, or a youth detention facility, as defined in 41-5-103;

(c) a peace officer, as defined in 46-1-202;

(d) a department of transportation employee appointed as a peace officer pursuant to 61-12-201;

(e) a ~~law enforcement officer~~ or reserve officer, as ~~the terms are~~ defined in 7-32-201;

(f) a public safety communications officer, as defined in 7-31-201;

(g) a probation or parole officer who is employed by the department of corrections pursuant to

1 46-23-1002;

2 (h) a person subject to training requirements pursuant to 44-2-113 or 44-4-902; and

3 (i) a sheriff, except that nothing in this part may be construed to require an elected sheriff to possess a  
4 certificate issued by the council or be eligible for certification;

5 (j) a coroner with the duties described in 7-4-2911 or a deputy coroner appointed pursuant to 7-4-2901,  
6 except that nothing in this part may be construed to require an elected coroner to possess a certificate issued  
7 by the council or be eligible for certification;

8 (k) a publicly employed misdemeanor probation officer as described in 46-23-1005;

9 (l) a pretrial services officer who meets the training requirements described in 46-23-1005 and who is  
10 employed by a pretrial services agency; and

11 ~~(h)(m)~~ any other person required by law to meet the qualification or training standards established by the  
12 council."

13

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

15 **"44-4-403. Council duties -- determinations -- appeals.** (1) The council shall:

16 (a) establish through administrative rule the basic and advanced qualification and continuing training and  
17 employment standards for employment, including professional conduct standards for all public safety officers in  
18 Montana;

19 (b) ~~conduct and approve~~ or review the training necessary to satisfy standards established pursuant to  
20 subsection (1)(a) for all public safety officers in Montana; and

21 ~~(c) provide for the certification or recertification of public safety officers and for the suspension or~~  
22 ~~revocation of certification of public safety officers~~ determine an individual's eligibility or ineligibility for certification  
23 as a public safety officer in Montana;

24 (d) provide for a minimum of basic certification for a public safety officer who meets the qualification,  
25 training, and employment standards for the discipline in which the officer is currently employed; and

26 (e) sanction, suspend, revoke, or deny the certification of public safety officers who violate or fail to meet  
27 standards established by the council.

28 (2) The council may waive or modify a qualification or training standard set in administrative rule for good  
29 cause.

30 (3) ~~(a) A person who has been denied certification or recertification or whose certification or recertification~~

1 has been sanctioned, suspended, or revoked, or denied based on misconduct or who has been declared  
 2 ineligible for certification by the council is entitled to a contested case hearing before the council pursuant to Title  
 3 2, chapter 4, part 6, and administrative rules established by the council that are consistent with Title 2, chapter  
 4 4, part 6, except that a decision by the council may be appealed to the board of crime control, as provided for in  
 5 44-7-101. A decision of the board of crime control is a final agency decision subject to judicial review.

6 (b) The revocation or suspension of a public safety officer's basic certificate in any discipline automatically  
 7 revokes or suspends for the same period all other public safety certificates held by the officer. A person may not  
 8 be appointed or employed as a public safety officer if the person has ever had a public safety officer basic  
 9 certificate revoked or if the person currently has a public safety officer basic certificate suspended.

10 (4) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose  
 11 of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding public safety  
 12 officers in order to ~~provide for the certification or recertification of a public safety officer and for the suspension~~  
 13 ~~or revocation of certification of a public safety officer~~ fulfill the duties specified in subsections (1)(d) and (1)(e).  
 14 The council may not record or retain any confidential criminal justice information without complying with the  
 15 provisions of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5.

16 (5) The council may delegate decisions related to the grant or denial of equivalent credit or the duties  
 17 listed in 7-32-303(5) and subsection (1)(b) of this section to the council's staff or executive director as long as the  
 18 council reviews any decision that adversely affects the rights of an individual pursuant to Title 2, chapter 4, part  
 19 6."

20  
 21 **Section 3.** Section 44-4-404, MCA, is amended to read:  
 22 **"44-4-404. Appointing authority responsible for applying standards.** (1) A public safety officer in  
 23 Montana must meet the applicable qualification, training, and employment standards for the discipline in which  
 24 the officer is currently employed and must be certified in that discipline by the council or eligible for the  
 25 certification after the completion of a 1-year probationary period.

26 (2) It is the responsibility of a public safety officer's appointing authority to ~~apply~~ ensure that every public  
 27 safety officer the authority employs meets the ~~training and~~ employment standards ~~and training criteria~~ established  
 28 by the council pursuant to this part, including but not limited to:

29 (a) requiring ~~the successful completion of minimum training standards~~ that the public safety officer be  
 30 certified by the council in the discipline in which the officer is currently employed or be eligible for the certification

1 within 1 year of the public safety officer's hire date; and

2 (b) terminating or suspending the employment of a public safety officer for failure to meet the minimum  
3 standards established by the council pursuant to this part whose certification has been suspended, revoked, or  
4 denied or who has been declared ineligible for certification until the officer has obtained a valid certification from  
5 the council in the appropriate discipline.

6 (3) It is unlawful for a person whose basic certification as an officer in any discipline has been revoked  
7 or denied by the council for misconduct or who has been declared ineligible for certification by the council based  
8 on misconduct to act, be appointed, or be employed as a public safety officer in any discipline in Montana. It is  
9 unlawful for a person whose basic certification has been suspended by the council to act, be appointed, or be  
10 employed as a public safety officer in any discipline in Montana during the period for which the certification is  
11 suspended. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of  
12 imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both.

13 (4) Within 10 days of the appointment, termination, resignation, or death of a public safety officer, the  
14 officer's employing authority shall give written notice of the event to the council."

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