

HOUSE BILL NO. 589

INTRODUCED BY J. GILLETTE, S. KELLY, B. USHER, D. BAUM

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PEACE OFFICER EDUCATION STANDARDS; PROVIDING THAT A QUALIFIED LAW ENFORCEMENT ACADEMY MAY PROVIDE THE PEACE OFFICER BASIC COURSE EDUCATION REQUIREMENT; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 2-15-2029 AND 7-32-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-15-2029, MCA, is amended to read:

"2-15-2029. Montana public safety officer standards and training council -- administrative attachment -- rulemaking. (1) (a) There is a Montana public safety officer standards and training council. The council is a quasi-judicial board, as provided for in 2-15-124, and is allocated to the department of justice, established in 2-15-2001, for administrative purposes only as provided in 2-15-121, except as provided in subsection (1)(b) of this section.

(b) The council may hire its own personnel and independently administer the conduct of its business, and 2-15-121(2)(a), (2)(d), and (3)(a) do not apply.

(2) The council may adopt rules to implement the provisions of 7-32-303 and Title 44, chapter 4, part 4. Rules must be adopted pursuant to the Montana Administrative Procedure Act."

Section 2. 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 the purposes of this section, unless the context clearly indicates otherwise, the following definitions apply:

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

1 (b) ~~_____ "peace officer"~~ "Peace officer" means a deputy sheriff, undersheriff, police officer, highway
2 patrol officer, fish and game warden, park ranger, campus security officer, or airport police officer.

3 (2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person
4 authorized by law to appoint peace officers in this state may not appoint a person as a peace officer who does
5 not meet the qualifications provided in this subsection (2) plus any additional qualifying standards for
6 employment promulgated by the ~~Montana public safety officer standards and training council established in 2-~~
7 ~~15-2029~~ council. A peace officer must:

8 (a) be a citizen of the United States;

9 (b) be at least 18 years of age;

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

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

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

15 (f) be a high school graduate or have been issued a high school equivalency diploma by the
16 superintendent of public instruction or by an appropriate issuing agency of another state or of the federal
17 government;

18 (g) be free of any mental condition that might adversely affect performance of the duties of a
19 peace officer, as determined after:

20 (i) a mental health evaluation performed by a licensed physician or a mental health professional
21 who is licensed by the state under Title 37, who is acting within the scope of the person's licensure when
22 performing a mental health evaluation, who is not the applicant's personal physician or licensed mental health
23 professional, and who is selected by the employing authority; or

24 (ii) satisfactory completion of a standardized mental health evaluation instrument determined by
25 the employing authority to be sufficient to examine for any mental conditions within the meaning of this
26 subsection (2)(g), if the instrument is scored by a licensed physician or a mental health professional acting
27 within the scope of the person's licensure by a state;

28 (h) be free of any physical condition that might adversely affect performance of the duties of a

1 peace officer, as determined after satisfactory completion of a physical examination performed by a health care
2 provider who is licensed by the state under Title 37 and acting within the scope of the person's licensure when
3 performing the physical examination, who is not the applicant's personal health care provider, and who is
4 selected by the employing authority;

5 (i) have successfully completed an oral examination conducted by the appointing authority or its
6 designated representative to demonstrate the possession of communication skills, temperament, motivation,
7 and other characteristics necessary to the accomplishment of the duties and functions of a peace officer;

8 (j) possess or be eligible for a valid Montana driver's license; and

9 (k) be certified or be eligible for certification as a peace officer by the council or become eligible for
10 certification upon completion of the requirements contained in subsections (6) through (10).

11 (3) At the time of appointment, a peace officer shall take the formal oath of office prescribed in
12 Article III, section 3, of the Montana constitution. No other oath may be required.

13 (4) Within 10 days of the appointment, termination, resignation, or death of a peace officer, written
14 notice of the event must be given to the ~~Montana public safety officer standards and training council~~ by the
15 employing authority.

16 (5) It is the duty of an appointing authority in Montana to ensure that each peace officer appointed
17 under its authority has the basic training, including any training required in subsections (6) through (8), in
18 addition to meeting all other requirements of peace officer certification promulgated by the ~~Montana public
19 safety officer standards and training council~~. Any peace officer appointed after September 30, 1983, who fails to
20 meet the minimum requirements as set forth in subsection (2) or who fails to complete the basic training
21 required by subsections (6) through (8) forfeits the position, authority, and arrest powers accorded a peace
22 officer in this state.

23 (6) (a) Except as provided in subsections (7) and (8), a peace officer shall successfully complete
24 the peace officer basic course as approved by the council at:

25 (i) the Montana law enforcement academy; or

26 (ii) a law enforcement academy administered by an accredited Montana college or university

27 whose curriculum and methods of training for officers and other individuals attending the academy are

28 approved by both a Montana state or local law enforcement agency and the council. The curriculum and the

1 methods of training under this subsection (6)(a)(ii) must be commensurate with the peace officer basic course
2 held at the Montana law enforcement academy, as approved by the council,

3 (b) A peace officer shall complete the peace officer basic course pursuant to subsection (6)(a)
4 within 1 year of:

5 (a)(i) the peace officer's initial appointment as a peace officer; or

6 (b)(ii) the peace officer's most recent appointment as a peace officer if the peace officer has had a
7 break in service as a peace officer of more than 5 years.

8 (7) (a) If a peace officer previously satisfied the requirement in subsection (6), is certified or is
9 eligible for certification as a peace officer in Montana or may become eligible for certification upon completion of
10 the probationary period in subsection (10), and has had a break in service as a peace officer of less than 3
11 years, the peace officer is not required to satisfy the requirement in subsection (6) or to attend an equivalency
12 course prior to returning to work in Montana as a peace officer.

13 (b) If a peace officer previously satisfied the requirement in subsection (6), is certified or is eligible
14 for certification as a peace officer in Montana or may become eligible for certification upon completion of the
15 probationary period in subsection (10), and has been continuously employed as a peace officer outside of
16 Montana for no more than 3 years, the peace officer is not required to satisfy the requirement in subsection (6)
17 or to attend an equivalency course prior to returning to work in Montana as a peace officer.

18 (c) If a peace officer previously completed the peace officer basic course as provided in subsection
19 (6) successfully, is certified or is eligible for certification as a peace officer in Montana or may become eligible
20 for certification upon completion of the probationary period in subsection (10), and has been continuously
21 employed as a peace officer outside of Montana for more than 3 years or who has had a break in service as a
22 peace officer for more than 3 years but less than 5 years, the peace officer shall successfully complete the
23 peace officer basic equivalency course, as approved by the council, within 1 year of the peace officer's most
24 recent appointment as a peace officer in Montana. If the peace officer fails the basic equivalency course, the
25 officer shall satisfy the requirement in subsection (6) at the next available opportunity.

26 (d) If a person satisfied the requirement in subsection (6) prior to the person's appointment or
27 employment and is hired or appointed as a peace officer more than 3 years but less than 5 years after the date
28 that the person satisfied the requirement in subsection (6), the person shall successfully complete the peace

1 officer basic equivalency course, as approved by the council, within 1 year of the person's most recent
2 appointment or employment as a peace officer. If the person is not appointed or employed as a peace officer
3 within 5 years after the date of the person's successful completion of the requirement in subsection (6), the
4 person shall satisfy the requirement in subsection (6) within 1 year of the person's most recent appointment or
5 employment as a peace officer in Montana.

6 (8) (a) Except as provided in subsection (8)(c), if a peace officer has successfully completed a
7 peace officer basic course that is taught or approved by a federal, state, local, or United States military law
8 enforcement agency, that satisfies the peace officer basic training requirement for that agency, and that the
9 council has reviewed and approved as commensurate with the a current peace officer basic course offered at
10 the Montana law enforcement academy pursuant to subsection (6), the peace officer shall successfully
11 complete the peace officer basic equivalency course, as approved by the council, within 1 year of the officer's
12 initial appointment in Montana. If the officer fails the basic equivalency course, the officer must satisfy the
13 requirement in subsection (6) at the next available opportunity.

14 (b) Except as provided in subsection (8)(c), if a peace officer has successfully completed a peace
15 officer basic course that is taught or approved by a federal, state, local, or United States military law
16 enforcement agency and that satisfies the peace officer basic training requirement for that agency and if that
17 peace officer's combined training and experience have been reviewed and approved by the council as
18 commensurate with the a current peace officer basic course offered at the Montana law enforcement academy
19 pursuant to subsection (6), the peace officer shall successfully complete the peace officer basic equivalency
20 course, as approved by the council, within 1 year of the officer's initial appointment in Montana. If the officer
21 fails the basic equivalency course, the officer must satisfy the requirement in subsection (6) at the next
22 available opportunity.

23 (c) If the peace officer has had a break in service as a peace officer for more than 5 years, the
24 officer shall complete the requirement of subsection (6) within 1 year of the officer's initial appointment as a
25 peace officer in Montana.

26 (9) ~~The Montana public safety officer standards and training council~~ may extend the 1-year time
27 requirements of subsections (6) through (8) upon the written application of the appointing authority of the
28 officer. The application must explain the circumstances that make the extension necessary. Factors that the

1 council may consider in granting or denying the extension include but are not limited to illness of the peace
 2 officer or a member of the peace officer's immediate family, absence of reasonable access to the basic
 3 equivalency course, and an unreasonable shortage of personnel within the department. The council may not
 4 grant an extension to exceed 180 days.

5 (10) A peace officer who has successfully met the training, employment, and educational standards
 6 of this section, has successfully met the training and employment standards set by the council, and has
 7 completed a 1-year probationary term of employment must be issued a peace officer basic certificate by the
 8 council certifying that the peace officer has met all of the basic qualifying peace officer standards of this state.

9 (11) It is unlawful for a person whose basic certification as a peace officer has been revoked or
 10 denied by the Montana public safety officer standards and training council for misconduct to act as a peace
 11 officer. It is unlawful for a person whose peace officer basic certification has been suspended by the council to
 12 act or be appointed or employed as a peace officer in Montana during the period in which the certification is
 13 suspended. A person convicted of violating this subsection is guilty of a misdemeanor, punishable by a term of
 14 imprisonment not to exceed 6 months in the county jail or by a fine not to exceed \$500, or both.

15 (12) The council may adopt rules to implement the provisions of this section as provided in 2-15-
 16 2029. The rules must be adopted pursuant to the Montana Administrative Procedure Act."

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

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