
SENATE BILL 5668

State of Washington

63rd Legislature

2013 Regular Session

By Senators Padden and Baumgartner

Read first time 02/07/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to the removal and discharge of peace officers;
2 amending RCW 41.12.080, 41.14.110, and 43.43.070; and adding a new
3 section to chapter 43.101 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 41.12.080 and 2007 c 218 s 13 are each amended to read
6 as follows:

7 (1) The tenure of everyone holding an office, place, position or
8 employment under the provisions of this chapter shall be only during
9 good behavior, and except as provided in subsection (2) of this
10 section, any such person may be removed or discharged, suspended
11 without pay, demoted, or reduced in rank, or deprived of vacation
12 privileges or other special privileges for any of the following
13 reasons:

14 ~~((1))~~ (a) Incompetency, inefficiency or inattention to or
15 dereliction of duty;

16 ~~((2))~~ (b) Dishonesty, intemperance, immoral conduct,
17 insubordination, discourteous treatment of the public, or a fellow
18 employee, or any other act of omission or commission tending to injure
19 the public service; or any other willful failure on the part of the

1 employee to properly conduct himself or herself; or any willful
2 violation of the provisions of this chapter or the rules and regulation
3 to be adopted hereunder;

4 ~~((+3))~~ (c) Mental or physical unfitness for the position which the
5 employee holds;

6 ~~((+4))~~ (d) Dishonest, disgraceful, immoral or prejudicial conduct;

7 ~~((+5))~~ (e) Drunkenness or use of intoxicating liquors, narcotics,
8 or any other habit forming drug, liquid or preparation to such extent
9 that the use thereof interferes with the efficiency or mental or
10 physical fitness of the employee, or which precludes the employee from
11 properly performing the function and duties of any position under civil
12 service;

13 ~~((+6))~~ (f) Conviction of a felony, or a misdemeanor, involving
14 moral turpitude;

15 ~~((+7))~~ (g) Any other act or failure to act which in the judgment
16 of the civil service commissioners is sufficient to show the offender
17 to be an unsuitable and unfit person to be employed in the public
18 service.

19 (2) If an employer removes or discharges a person who holds an
20 office, place, position, or employment under this chapter for
21 committing an illegal act or an act of dishonesty or untruthfulness,
22 and an arbitrator finds that the employer established that the person
23 engaged in the act or acts by clear and convincing evidence, the
24 employer is deemed to have had just cause for the removal or discharge,
25 and the arbitrator may not overturn the removal or discharge.

26 (3) For purposes of this section, "illegal act" and an "act of
27 dishonesty or untruthfulness" mean the same as defined in section 4 of
28 this act.

29 **Sec. 2.** RCW 41.14.110 and 2012 c 117 s 14 are each amended to read
30 as follows:

31 (1) The tenure of every person holding an office, place, position,
32 or employment under the provisions of this chapter shall be only during
33 good behavior, and except as provided in subsection (2) of this
34 section, any such person may be removed or discharged, suspended
35 without pay, demoted, or reduced in rank, or deprived of vacation
36 privileges or other special privileges for any of the following
37 reasons:

1 ((+1)) (a) Incompetency, inefficiency, or inattention to, or
2 dereliction of duty;

3 ((+2)) (b) Dishonesty, intemperance, immoral conduct,
4 insubordination, discourteous treatment of the public, or a fellow
5 employee, or any other act of omission or commission tending to injure
6 the public service; or any other willful failure on the part of the
7 employee to properly conduct himself or herself; or any willful
8 violation of the provisions of this chapter or the rules and
9 regulations to be adopted hereunder;

10 ((+3)) (c) Mental or physical unfitness for the position which the
11 employee holds;

12 ((+4)) (d) Dishonest, disgraceful, or prejudicial conduct;

13 ((+5)) (e) Drunkenness or use of intoxicating liquors, narcotics,
14 or any other habit forming drug, liquid, or preparation to such extent
15 that the use thereof interferes with the efficiency or mental or
16 physical fitness of the employee, or which precludes the employee from
17 properly performing the function and duties of any position under civil
18 service;

19 ((+6)) (f) Conviction of a felony, or a misdemeanor involving
20 moral turpitude;

21 ((+7)) (g) Any other act or failure to act which in the judgment
22 of the civil service commission is sufficient to show the offender to
23 be an unsuitable and unfit person to be employed in the public service.

24 (2) If an employer removes or discharges a person who holds an
25 office, place, position, or employment under this chapter for
26 committing an illegal act or an act of dishonesty or untruthfulness,
27 and an arbitrator finds that the employer established that the person
28 engaged in the act or acts by clear and convincing evidence, the
29 employer is deemed to have had just cause for the removal or discharge,
30 and the arbitrator may not overturn the removal or discharge.

31 (3) For purposes of this section, "illegal act" and an "act of
32 dishonesty or untruthfulness" mean the same as defined in section 4 of
33 this act.

34 **Sec. 3.** RCW 43.43.070 and 1984 c 141 s 2 are each amended to read
35 as follows:

36 (1) Discharge of any officer with probationary status and
37 discharge, demotion, or suspension of any officer with nonprobationary

1 status shall be only for cause, which shall be clearly stated in a
2 written complaint, sworn to by the person preferring the charges, and
3 served upon the officer complained of.

4 (2) Removal or discharge of any officer for committing an illegal
5 act or an act of dishonesty or untruthfulness established by clear and
6 convincing evidence shall be deemed to satisfy the reasonableness and
7 lawfulness standard set forth in RCW 43.43.100.

8 (3) Upon being ((se)) served with a written complaint, any such
9 officer shall be entitled to a public hearing before a trial board
10 consisting of two Washington state patrol officers of the rank of
11 captain, and one officer of equal rank with the officer complained of,
12 who shall be selected by the chief of the Washington state patrol by
13 lot from the roster of the patrol. In the case of complaint by an
14 officer, such officer shall not be a member of the trial board.

15 (4) For purposes of this section, "illegal act" and an "act of
16 dishonesty or untruthfulness" mean the same as defined in section 4 of
17 this act.

18 NEW SECTION. Sec. 4. A new section is added to chapter 43.101 RCW
19 to read as follows:

20 (1) If an employer removes or discharges a person who holds an
21 office, place, position, or employment under this chapter for
22 committing an illegal act or an act of dishonesty or untruthfulness,
23 and an arbitrator finds that the employer established that the person
24 engaged in the act or acts by clear and convincing evidence, the
25 employer is deemed to have had just cause for the removal or discharge,
26 and the arbitrator may not overturn the removal or discharge.

27 (2) For purposes of this section, the following terms have the
28 following meanings:

29 (a) "Illegal act" means the commission of a crime involving moral
30 turpitude in the discharge of the person's official duties, including
31 but not limited to: A violent offense, as defined in RCW 9.94A.030; a
32 sex offense, as defined in RCW 9.94A.030; theft, as defined in RCW
33 9A.56.030 through 9A.56.050; fraud under chapter 9A.60 RCW; malicious
34 mischief, as defined in RCW 9A.48.070 through 9A.48.090; and indecent
35 exposure, as defined in RCW 9A.88.010.

36 (b) "An act of dishonesty or untruthfulness" means intentionally

1 making a false statement in response to a direct question in an
2 official investigation or disciplinary process or intentionally making
3 a false statement in an official public document.

4 NEW SECTION. **Sec. 5.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

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