

HOUSE BILL NO. 351

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES HAWKER, Kerttula, Foster

Introduced: 2/22/12

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing procedures relating to issuance, suspension, or revocation of**
2 **certification of police officers by the police standards council; making certain court**
3 **service officers subject to certification by the police standards council; making**
4 **confidential certain information that personally identifies a police officer; relating to**
5 **requesting or requiring police officers to submit to lie detector tests; repealing a**
6 **provision exempting certain police officers from a prohibition against requiring certain**
7 **employees to submit to lie detector tests; and providing for an effective date."**

8 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

9 *** Section 1.** AS 18.65.240(c) is repealed and reenacted to read:

10 (c) If a police officer does not meet the standards adopted under (a)(2) of this
11 section, the council may

12 (1) suspend a certificate that has been issued to the police officer;

13 (2) following the filing of an accusation, hearing, and decision under

1 AS 44.62.330 - 44.62.630, revoke the certificate of a police officer if revocation is
2 consistent with the decision;

3 (3) following the filing of a statement of issues, hearing, and decision
4 under AS 44.62.330 - 44.62.630, refuse to issue a certificate to an applicant, if refusal
5 is consistent with the decision.

6 * **Sec. 2.** AS 18.65.240 is amended by adding a new subsection to read:

7 (d) In a proceeding to determine the outcome of the accusation or statement of
8 issues, the council shall prove the conduct alleged in the accusation or statement of
9 issues by clear and convincing evidence.

10 * **Sec. 3.** AS 18.65 is amended by adding a new section to read:

11 **Sec. 18.65.244. Deference to prior resolutions.** Notwithstanding
12 AS 18.65.240, the council may not suspend, revoke, or refuse to issue a certificate to a
13 police officer based on a disciplinary action against the police officer that has been
14 reversed or removed as the result of

15 (1) an arbitration or grievance proceeding under a collective
16 bargaining agreement;

17 (2) a grievance, hearing, or other proceeding under applicable
18 personnel rules; or

19 (3) a proceeding under AS 44.62 (Administrative Procedure Act).

20 * **Sec. 4.** AS 18.65.290(7) is amended to read:

21 (7) "police officer" means

22 (A) a full-time employee of the state or a municipal police
23 department with the authority to arrest and issue citations; detain a person
24 taken into custody until that person can be arraigned before a judge or
25 magistrate; conduct investigations of violations of and enforce criminal laws,
26 regulations, and traffic laws; search with or without a warrant persons,
27 dwellings, and other forms of property for evidence of a crime; and take other
28 action consistent with exercise of these enumerated powers when necessary to
29 maintain the public peace;

30 (B) an officer or employee of the Department of Transportation
31 and Public Facilities who is stationed at an international airport and has been

1 designated to have the general police powers authorized under
2 AS 02.15.230(a);

3 (C) a University of Alaska public safety officer with general
4 police powers authorized under AS 14.40.043;

5 **(D) a person who is designated under AS 22.20.130 to assist**
6 **the commissioner of public safety in the execution of the authority and**
7 **duty vested by AS 22.20.100 - 22.20.140;**

8 * **Sec. 5.** AS 39.90.100(a) is amended to read:

9 (a) A public employer may not discharge, threaten, or otherwise discriminate
10 against an employee regarding the employee's compensation, terms, conditions,
11 location, or privileges of employment [BECAUSE]

12 (1) **because** the employee, or a person acting on behalf of the
13 employee, reports to a public body or is about to report to a public body a matter of
14 public concern; [OR]

15 (2) **because** the employee participates in a court action, an
16 investigation, a hearing, or an inquiry held by a public body on a matter of public
17 concern; **or**

18 **(3) in the case of an employee who is a police officer, because the**
19 **employee refuses under (e) of this section to submit to a test conducted with a lie**
20 **detector device.**

21 * **Sec. 6.** AS 39.90.100 is amended by adding new subsections to read:

22 (e) A police officer who works for a public employer may refuse a request by
23 the employer to submit to a test conducted with a lie detector device. The refusal and
24 the underlying request

25 (1) are confidential;

26 (2) may not be made part of the police officer's personnel file or
27 employment record.

28 (f) In this section, "lie detector device" means a polygraph, deceptograph,
29 voice stress analyzer, psychological stress evaluator, or other similar device,
30 mechanical or electrical, that is used to obtain data to support a diagnostic opinion
31 regarding the honesty or dishonesty of a natural person.

1 * **Sec. 7.** AS 40.25 is amended by adding a new section to read:

2 **Sec. 40.25.145. Confidentiality of police officer information.** (a) Except as
3 provided in (b) of this section, information in the possession of a law enforcement
4 agency that personally identifies a police officer who is employed by the agency,
5 including the police officer's photographic image or home address, is confidential and
6 is not subject to inspection under AS 40.25.110 or 40.25.120 unless the police officer
7 voluntarily authorizes its release in writing.

8 (b) Notwithstanding (a) of this section, information that personally identifies a
9 police officer may be released for inspection under AS 40.25.110 or 40.25.120 if

10 (1) the police officer is lawfully arrested and the information is a
11 photograph of the police officer; or

12 (2) the police officer is lawfully arrested and the information is
13 included in one or more of the following:

14 (A) a report or recording that documents a 911 telephone call;

15 (B) a police or investigative report;

16 (C) a complaint made to a law enforcement agency;

17 (D) the statement of a witness in either a criminal matter or a
18 proceeding related to the adjudication of a minor under AS 47.12.110.

19 * **Sec. 8.** AS 23.10.037(b) is repealed.

20 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).