

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9 * **Section 1.** AS 18.65.240(c) is repealed and reenacted to read: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

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

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

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

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

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

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

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

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

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

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

(7) "police officer" means

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

(B) an officer or employee of the Department of Transportation 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).