

CS FOR SENATE BILL NO. 198(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/7/12

Referred: Judiciary

Sponsor(s): SENATE STATE AFFAIRS COMMITTEE

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 Alaska Police Standards Council; making**
3 **confidential certain information that personally identifies a police officer; relating to**
4 **requesting or requiring police officers or applicants for employment as peace officers to**
5 **submit to lie detector tests; and providing for an effective date."**

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

7 *** Section 1.** AS 18.65.240(c) is repealed and reenacted to read:

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

10 (1) before filing an accusation or a statement of issue under
11 AS 44.62.330 - 44.62.630, suspend a certificate that has been issued to the police
12 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;

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

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

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

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

9 **Sec. 18.65.244. Deference to prior resolutions.** In a proceeding to revoke,
10 suspend, or refuse to issue a certificate to a police officer, the council may consider
11 past disciplinary actions against the police officer. However, the council shall give
12 substantial weight to the significance of a past removal or reversal of the disciplinary
13 action if the removal or reversal was the result of

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

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

18 (3) a proceeding under AS 44.62 (Administrative Procedure Act); or

19 (4) an appeal to a court.

20 * **Sec. 4.** AS 23.10.037(b) is amended to read:

21 (b) The provisions of (a) of this section do not apply to the state or a political
22 subdivision of the state when dealing with **an applicant for employment as a police**
23 **officer in a position with the state or the political subdivision** [POLICE OFFICERS
24 IN ITS EMPLOY OR WITH PERSONS APPLYING TO BE EMPLOYED AS
25 POLICE OFFICERS]. In this subsection, "police **officer** [OFFICERS]" includes **an**
26 **officer or employee** [OFFICERS AND EMPLOYEES] of the Department of
27 Transportation and Public Facilities who **is** [ARE] stationed at an international airport
28 and **has** [HAVE] been designated to have the general police powers authorized under
29 AS 02.15.230(a).

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

31 (a) A public employer may not discharge, threaten, or otherwise discriminate

1 against an employee regarding the employee's compensation, terms, conditions,
2 location, or privileges of employment [BECAUSE]

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

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

9 **(3) in the case of an employee who is a police officer, because the**
10 **employee refuses under (e) of this section to submit to a test conducted with a lie**
11 **detector device after being hired.**

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

13 (e) A police officer who works for a public employer may, after being hired,
14 refuse a request by the employer to submit to a test conducted with a lie detector
15 device. The refusal and the underlying request

16 (1) are confidential;

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

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

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

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

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

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

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

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

6 (B) a police or investigative report;

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

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

10 * **Sec. 8.** This Act takes effect immediately under AS 01.10.070(c).