

CHAPTER 279

GOVERNMENT - STATE

SENATE BILL 96-234

BY SENATOR Perlmutter;
also REPRESENTATIVES Tucker, Chlouber, and Keller.

AN ACT

CONCERNING THE QUALIFICATIONS OF PEACE OFFICERS, AND, IN CONNECTION THEREWITH, AMENDING THE CERTIFICATION REQUIREMENTS OF THE PEACE OFFICER STANDARDS AND TRAINING BOARD, SPECIFYING THE TRAINING REQUIREMENTS AND DUTIES FOR A PEACE OFFICER, LEVEL IIIa, AND EXCLUDING FROM THE DEFINITION OF PEACE OFFICER A PERSON SERVING AS A CITIZEN AUXILIARY, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-31-303 (2) (a) and (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-31-303 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

24-31-303. Duties - powers of the P.O.S.T. board. (2) (a) ~~On and after July 1, 1994,~~ The P.O.S.T. board may charge the following fees, the proceeds of which may be used to support the certification of applicants ~~to serve as peace officers or reserve peace officers~~ pursuant to this part 3:

(I) For the manuals or other materials that the board may publish in connection with its functions, an amount not to exceed twenty dollars per publication; and

(II) For the administration of ~~the standardized examination~~ CERTIFICATION AND SKILLS EXAMINATIONS, an amount not to exceed ~~fifty~~ ONE HUNDRED dollars per examination per applicant.

(3) The P.O.S.T. board may make grants to local governments or to any college or university for the purpose of funding the training programs required by this section. ~~for the certification of peace officers.~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(4) VARIANCES FROM THE PROVISIONS OF THIS PART 3 AND REGULATIONS ISSUED PURSUANT THERETO MAY BE GRANTED BY THE P.O.S.T. BOARD WHERE STRICT APPLICATION THEREOF WOULD RESULT IN PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP AND WHERE THE VARIANCE WOULD NOT CONFLICT WITH THE BASIC PURPOSES AND POLICIES OF THIS PART 3.

(5) IT IS UNLAWFUL FOR ANY PERSON TO SERVE AS A PEACE OFFICER OR A RESERVE PEACE OFFICER IN THIS STATE UNLESS SUCH PERSON:

(a) IS CERTIFIED PURSUANT TO THIS PART 3; AND

(b) HAS UNDERGONE BOTH A PHYSICAL AND A PSYCHOLOGICAL EVALUATION TO DETERMINE SUCH PERSON'S FITNESS TO SERVE AS A PEACE OFFICER OR A RESERVE PEACE OFFICER. SUCH EVALUATIONS SHALL HAVE BEEN PERFORMED WITHIN ONE YEAR PRIOR TO THE DATE OF APPOINTMENT BY A PHYSICIAN AND EITHER A PSYCHOLOGIST OR PSYCHIATRIST LICENSED BY THE STATE OF COLORADO.

SECTION 2. 24-31-304, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-31-304. Applicants for training - background investigation. (1) Each training academy, college, or university ~~which~~ THAT has established a training program approved by the P.O.S.T. board shall provide written notice to each applicant that:

(a) No person who has been convicted of a felony ~~or a crime involving moral turpitude~~ may be certified TO SERVE as a peace officer OR A RESERVE PEACE OFFICER in the state of Colorado; and

(b) It is each applicant's responsibility to determine the applicant's eligibility for certification prior to enrolling in any training program.

(2) Each training academy, college, or university shall take reasonable steps to exclude from such training program those applicants who ~~are ineligible for certification by reason of a conviction~~ HAVE BEEN CONVICTED of a felony. ~~or a crime involving moral turpitude.~~

SECTION 3. 24-31-305, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-31-305. Certification - issuance - renewal - revocation. (1) (a) ~~The P.O.S.T. board shall issue a certificate to any applicant for appointment as a peace officer who has met the following~~ Basic PEACE OFFICER certification requirements SHALL INCLUDE:

(I) Successful completion of a high school education or its equivalent;

(II) SUCCESSFUL COMPLETION OF basic training approved by the P.O.S.T. board;

(III) Passage of a ~~standardized test~~ EXAMINATIONS ~~developed and~~ administered by the P.O.S.T. board; AND

(IV) CURRENT FIRST AID AND CARDIOPULMONARY RESUSCITATION CERTIFICATES OR THEIR EQUIVALENTS.

(b) The training required for basic certification may be obtained ~~either through the completion of a training program conducted by a training academy which has been approved by the P.O.S.T. board, or by the completion of a course of study which has been approved by the P.O.S.T. board,~~ OR COMPLETION OF REQUIREMENTS OF ANOTHER STATE, FEDERAL, OR TRIBAL JURISDICTION HAVING STANDARDS DEEMED AT LEAST EQUIVALENT TO THOSE ESTABLISHED PURSUANT TO THIS PART 3.

(1.3) Reserve PEACE OFFICER certification requirements shall include:

(a) ~~the Successful completion of a high school education or its equivalent; and task-specific training approved by the P.O.S.T. board.~~

(b) SUCCESSFUL COMPLETION OF RESERVE TRAINING APPROVED BY THE P.O.S.T. BOARD; AND

(c) CURRENT FIRST AID AND CARDIOPULMONARY RESUSCITATION CERTIFICATES OR THEIR EQUIVALENTS.

(1.5) The P.O.S.T. board shall deny certification to any person who has been convicted of a felony. ~~or a crime involving moral turpitude.~~

(1.7) (a) UNLESS REVOKED, A CERTIFICATION ISSUED PURSUANT TO THIS PART 3 IS VALID AS LONG AS THE CERTIFICATE HOLDER IS CONTINUOUSLY SERVING AS A PEACE OFFICER OR RESERVE PEACE OFFICER.

(b) IF A CERTIFICATE HOLDER HAS NOT SERVED AS A PEACE OFFICER OR RESERVE PEACE OFFICER FOR A TOTAL OF SIX MONTHS DURING ANY CONSECUTIVE THREE-YEAR PERIOD, THE CERTIFICATION AUTOMATICALLY EXPIRES AT THE END OF SUCH THREE-YEAR PERIOD, UNLESS THE CERTIFICATE HOLDER IS THEN SERVING AS A PEACE OFFICER OR RESERVE PEACE OFFICER.

(c) THE P.O.S.T. BOARD MAY PROMULGATE RULES AND REGULATIONS FOR THE RENEWAL OF CERTIFICATION THAT EXPIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1.7); EXCEPT THAT NO EXPIRED CERTIFICATION SHALL BE RENEWED IF THE CERTIFICATE HOLDER HAS NOT SERVED AS A PEACE OFFICER OR RESERVE PEACE OFFICER WITHIN THE PREVIOUS TEN YEARS.

(2) A certification issued pursuant to ~~subsections~~ SUBSECTION (1) ~~and~~ OR (1.3) of this section shall be ~~subject to revocation or suspension~~ SUSPENDED OR REVOKED by the P.O.S.T. board if the ~~peace officer or reserve peace officer~~ CERTIFICATE HOLDER HAS BEEN CONVICTED OF A FELONY OR HAS OTHERWISE FAILED TO MEET THE CERTIFICATION REQUIREMENTS ESTABLISHED BY THE BOARD.

~~(a) Has been convicted of a felony or a crime involving moral turpitude;~~

~~(b) Has not served as a Colorado peace officer or reserve peace officer for a period of three consecutive years or more; or~~

~~(c) Has otherwise failed to meet the certification requirements established by the board.~~

~~(3) Certification is a prerequisite for the appointment or retention of all peace officers and reserve peace officers.~~ CERTIFICATION SHALL NOT VEST TENURE OR RELATED RIGHTS. THE POLICIES, IF ANY, OF THE EMPLOYING AGENCY SHALL GOVERN SUCH RIGHTS. Additional certification reflecting higher levels of proficiency may, at the discretion of the employing agency, be required in hiring, retaining, or promoting peace officers.

SECTION 4. Repeal. 24-31-306 (4), (5), (6), and (7), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are repealed.

SECTION 5. 24-31-306, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-31-306. Qualifications for peace officers - repeal. (8) (a) THE P.O.S.T. BOARD MAY WAIVE THE REQUIREMENTS OF SECTION 24-31-305 (1) (a) (II) FOR ANY PERSON WHO WAS APPOINTED AS A PART-TIME LEVEL I PEACE OFFICER BETWEEN MARCH 6, 1992, AND JANUARY 1, 1995, IF SUCH PERSON SUCCESSFULLY COMPLETES EITHER THE SKILLS EXAMINATION OR SKILLS TRAINING APPROVED BY THE P.O.S.T. BOARD.

(b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JANUARY 1, 1997.

SECTION 6. 18-1-901 (3) (I) (IV.5) and (3) (I) (V), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 18-1-901 (3) (I) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

18-1-901. Definitions. (3) (I) (IV.5) (A) "Peace officer, level IIIa," means any ~~reserve police officer, reserve deputy sheriff, or reserve marshal~~ PERSON authorized by any city, city and county, town, or county within this state to act as a reserve police officer, reserve deputy sheriff, or reserve marshal ~~respectively while~~ FOR CERTAIN SPECIFIC AND LIMITED PERIODS OF TIME WHILE SUCH PERSON IS AUTHORIZED TO BE on duty and acting at the express direction or under the direct supervision of a peace officer, level I, or a sheriff. Peace officer, level IIIa, has the authority to enforce all the laws of the state of Colorado while actually on duty for the city, city and county, town, or county and while acting within the scope of his OR HER authority and in the performance of his OR HER duties subject to the restrictions and requirements provided in this subparagraph (IV.5) AND SUBPARAGRAPH (IV.7) OF THIS PARAGRAPH (1). ~~"Peace officer, level IIIa," is an authorized volunteer for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.~~

(B) A peace officer, level IIIa, must have received ~~task-specific training that meets the requirements or standards established by~~ CERTIFICATION FROM the peace officers standards and training board, REFERRED TO IN THIS SECTION AS THE "P.O.S.T. board", pursuant to ~~section 24-31-303,~~ ARTICLE 31 OF TITLE 24, C.R.S. ANY CITY, CITY AND COUNTY, TOWN, OR COUNTY ASSIGNING DUTIES TO A PEACE OFFICER, LEVEL IIIa, BEYOND THOSE INCLUDED IN THE P.O.S.T. BOARD TRAINING SHALL ASSUME THE RESPONSIBILITY FOR ENSURING THAT SUCH PEACE OFFICER, LEVEL IIIa, IS ADEQUATELY TRAINED FOR SUCH DUTIES. Any expenses associated with such training

shall be authorized by the city, city and county, town, or county. If the jurisdiction allows or requires such peace officer, level IIIa, to carry or use a firearm while on duty, such peace officer, level IIIa, shall be certified for firearms proficiency with the same frequency and subject to the same requirements as ~~regular~~ A peace officers OFFICER, LEVEL I, ~~who perform like functions~~ in the jurisdiction. NO OTHER PEACE OFFICER, LEVEL IIIa, SHALL BE AUTHORIZED TO ENFORCE THE LAWS OF THE STATE OF COLORADO EXCEPT THOSE COMPLYING WITH THE TRAINING REQUIREMENTS SET FORTH IN THIS SUBPARAGRAPH (IV.5).

(C) The peace officer, level IIIa, must be in uniform when an assignment is carried out, and said uniform must be readily distinguishable from the uniform worn by peace officers, level I, or sheriffs of the jurisdiction, either because such uniform bears a patch or because such uniform is of a different color than the uniform worn by peace officers, level I, or sheriffs in the jurisdiction. However, when a peace officer, level IIIa, is assigned to extradition or surveillance duties, the peace officer, level IIIa, need not be in uniform.

(D) When performing extradition duties, the peace officer, level IIIa, must be accompanied by a peace officer, level I, or a sheriff. When performing surveillance duties, the assignment of the peace officer, level IIIa, shall be confined to such surveillance duties, and he OR SHE shall not perform any other activities related to law enforcement. ~~For the purposes of this subparagraph (IV.5):~~

(E) A PEACE OFFICER, LEVEL IIIa, SERVES WITHOUT COMPENSATION BUT MAY BE REIMBURSED AT THE DISCRETION OF THE CITY, CITY AND COUNTY, TOWN, OR COUNTY FOR ANY AUTHORIZED OUT-OF-POCKET EXPENSES INCURRED IN THE COURSE OF HIS OR HER DUTIES. THE CITY, CITY AND COUNTY, TOWN, OR COUNTY SHALL PAY THE COST FOR WORKERS' COMPENSATION BENEFITS FOR INJURIES INCURRED BY A PEACE OFFICER, LEVEL IIIa, WHILE ON DUTY AND WHILE ACTING WITHIN THE SCOPE OF ASSIGNED DUTIES. A PEACE OFFICER, LEVEL IIIa, IS AN AUTHORIZED VOLUNTEER FOR PURPOSES OF ARTICLE 10 OF TITLE 24, C.R.S.

~~(A) "Direct supervision" means an assignment given by a peace officer, level I, or a sheriff to a peace officer, level IIIa, which assignment is carried out in the personal presence of, or in direct radio or telephone contact with, and under the immediate control of the peace officer, level I, or sheriff. The peace officer, level IIIa, must be in uniform while such assignment is carried out, except when performing extradition or surveillance duties as otherwise provided in this subparagraph (IV.5):~~

~~(B) "Express direction" means a defined task-specific assignment given by a peace officer, level I, or a sheriff to a peace officer, level IIIa. The peace officer, level I, or sheriff need not be present while such assignment is being carried out by the peace officer, level IIIa. The peace officer, level IIIa, must be in uniform while such assignment is carried out, except when performing extradition or surveillance duties as otherwise provided in this subparagraph (IV.5):~~

~~(C) "Reserve police officer, reserve deputy sheriff, or reserve marshal" means an individual who volunteers to serve as an adjunct to the regular force of peace officers of a city, city and county, town, or county and whose services are accepted and duly authorized by such city, city and county, town, or county for certain specific and limited periods of time while such individual is authorized to be on duty. Such~~

~~individual serves without compensation but may be reimbursed at the discretion of the city, city and county, town, or county for any authorized out-of-pocket expenses incurred in the course of his duties as a reserve police officer, reserve deputy sheriff, or reserve marshal. The city, city and county, town, or county shall pay the cost for workers' compensation benefits for injuries incurred by the reserve police officer, reserve deputy sheriff, or reserve marshal while on duty and while acting within the scope of his assigned duties.~~

~~(D) No other reserve police officer, reserve deputy sheriff, or reserve marshal shall be authorized to enforce the laws of the state of Colorado pursuant to this subparagraph (IV.5) except those complying with the training requirements set forth in this subparagraph (IV.5).~~

(IV.7) FOR THE PURPOSES OF SUBPARAGRAPH (IV.5) OF THIS PARAGRAPH (I):

(A) "DIRECT SUPERVISION" MEANS AN ASSIGNMENT GIVEN BY A PEACE OFFICER, LEVEL I, OR A SHERIFF TO A PEACE OFFICER, LEVEL IIIa, WHICH ASSIGNMENT IS CARRIED OUT IN THE PERSONAL PRESENCE OF, OR IN DIRECT RADIO OR TELEPHONE CONTACT WITH, AND UNDER THE IMMEDIATE CONTROL OF THE PEACE OFFICER, LEVEL I, OR SHERIFF. THE PEACE OFFICER, LEVEL IIIa, MUST BE IN UNIFORM WHILE SUCH ASSIGNMENT IS CARRIED OUT, EXCEPT WHEN PERFORMING EXTRADITION OR SURVEILLANCE DUTIES AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV.5) OF THIS PARAGRAPH (I).

(B) "EXPRESS DIRECTION" MEANS A DEFINED TASK-SPECIFIC ASSIGNMENT GIVEN BY A PEACE OFFICER, LEVEL I, OR A SHERIFF TO A PEACE OFFICER, LEVEL IIIa. THE PEACE OFFICER, LEVEL I, OR SHERIFF NEED NOT BE PRESENT WHILE SUCH ASSIGNMENT IS BEING CARRIED OUT BY THE PEACE OFFICER, LEVEL IIIa. THE PEACE OFFICER, LEVEL IIIa, MUST BE IN UNIFORM WHILE SUCH ASSIGNMENT IS CARRIED OUT, EXCEPT WHEN PERFORMING EXTRADITION OR SURVEILLANCE DUTIES AS OTHERWISE PROVIDED IN SUBPARAGRAPH (IV.5) OF THIS PARAGRAPH (I).

~~(V) Unless otherwise limited, PROVIDED FOR IN THIS PARAGRAPH (I), a reference to "peace officer" in this title means all the levels set forth in this paragraph (I) A PERSON QUALIFIED AND AUTHORIZED TO CARRY A FIREARM, CONDUCT ARRESTS, AND ENFORCE THE LAWS OF THE STATE OF COLORADO. A PERSON SERVING AS A CITIZEN AUXILIARY IS NOT A PEACE OFFICER, AND THE P.O.S.T. BOARD SHALL NOT REQUIRE SUCH PERSONS TO BE CERTIFIED.~~

SECTION 7. 29-1-206, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

29-1-206. Law enforcement agreements. Any county in this state which shares a common border with a county in another state may enter into an agreement with such bordering county to provide for reciprocal law enforcement between such counties. Such agreement shall meet the requirements of section 29-1-203 and shall include, but shall not be limited to, an additional requirement that any person who is assigned to law enforcement duty in this state pursuant to such intergovernmental agreement and section 29-5-104 (2) shall be certified as a peace officer in Colorado ~~either by waiver under the provisions of section 24-31-306 (4), C.R.S., or as otherwise provided FOR in section 24-31-305, or 24-31-306, C.R.S., prior to such~~

assignment.

SECTION 8. 29-5-104 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

29-5-104. Request for temporary assignment of police officers or deputy sheriffs - authority. (2) Where, under the provisions of section 29-1-206, a county in this state enters into an intergovernmental agreement for reciprocal law enforcement with a bordering county which is located in another state, the sheriff of either county may, pursuant to the provisions of such intergovernmental agreement, request the sheriff of the other county to assign deputy sheriffs or other peace officers to perform law enforcement duties within the jurisdiction of such requesting sheriff and under such terms and conditions as are stated in the intergovernmental agreement. Prior to such assignment, such deputy sheriffs or other peace officers shall obtain certification as peace officers in this state ~~either by waiver under the provisions of section 24-31-306 (4), C.R.S., or as otherwise provided FOR in section 24-31-305, or 24-31-306, C.R.S.~~ Such deputy sheriffs or other peace officers shall, while so assigned and performing duties subject to the direction and control of the requesting sheriff, have the same power within the jurisdiction of the requesting sheriff as do regular deputies of such requesting sheriff.

SECTION 9. Adjustments to the 1996 long bill. For the implementation of this act, appropriations made in the annual general appropriation act to the department of law, special purpose, police officers standards and training board support, for the fiscal year beginning July 1, 1996, shall be adjusted as follows: The general fund appropriation is reduced by ninety-eight thousand four hundred dollars (\$98,400) and the cash fund appropriation, from the police officers standards and training board cash fund, is increased by one hundred twenty thousand dollars (\$120,000).

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1996