

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 450

BY: LEFTWICH

AS INTRODUCED

AN ACT RELATING TO SCHOOLS; AMENDING 70 O.S. 1981, SECTION 3311, AS LAST AMENDED BY SECTION 2, CHAPTER 185, O.S.L. 1989, AND SECTION 1, CHAPTER 292, O.S.L. 1990 (70 O.S. SUPP. 1990, SECTIONS 3311 AND 3311.4), WHICH RELATE TO THE COUNCIL ON LAW ENFORCEMENT AND TRAINING AND CONTINUING LAW ENFORCEMENT TRAINING; AUTHORIZING THE COUNCIL TO CONTINUE CERTIFICATION OF RETIRED FULL-TIME PEACE OFFICERS; SETTING STANDARDS; REQUIRING NOTICE OF RETIRING OFFICERS; REQUIRING CONTINUED LAW ENFORCEMENT EDUCATION; PROVIDING FOR SUSPENSION OF CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1981, Section 3311, as last amended by Section 2, Chapter 185, O.S.L. 1989 (70 O.S. Supp. 1990, Section 3311), is amended to read as follows:

Section 3311. A. There is hereby re-created a Council on Law Enforcement Education and Training. The Council shall be composed of five (5) police or peace officers, one selected by each of the

following: the Court of Criminal Appeals, the Commissioner of Public Safety, the Board of Directors of the Oklahoma Sheriffs and Peace Officers Association, the Board of Directors of the Fraternal Order of Police and the Governor. The Director selected by the Council shall be an ex officio member of the Council and shall act as Secretary. The Council on Law Enforcement Education and Training shall select a chairman and vice-chairman from among its members. Members of the Council on Law Enforcement Education and Training shall not receive a salary for duties performed as members of the Council, but shall be reimbursed for their actual and necessary expenses incurred in the performance of Council duties pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes.

B. The Council on Law Enforcement Education and Training is hereby authorized and directed to:

1. Appoint a larger Advisory Council to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to upgrading Oklahoma law enforcement to professional status.

2. Promulgate rules and regulations with respect to such matters as certification, revocation and withdrawal of certification, minimum courses of study, testing and test scores, attendance requirements, equipment and facilities, minimum qualifications for instructors, minimum standards for basic and advanced in-service courses, and seminars for Oklahoma police and peace officers.

3. Authorize research, basic and advanced courses, and seminars to assist in program planning directly and through subcommittees.

4. Authorize additional staff and services necessary for program expansion.

5. Recommend legislation necessary to upgrade Oklahoma law enforcement to professional status.

6. Establish policies and regulations concerning the number, geographic and police unit distribution, and admission requirements of those receiving tuition or scholarship aid available through the Council. Such waiver of costs shall be limited to duly appointed members of legally constituted local, county, and state law enforcement agencies on the basis of educational and financial need.

7. Appoint a Director and an Assistant Director to direct the staff, inform the Council of compliance with the provisions of this section and perform such other duties imposed on the Council by law.

8. Enter into contracts and agreements for the payment of classroom space, food, and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction approved or conducted by the Council. Such expenses may be paid for directly to the contracting agency or business establishment. The food and lodging expenses for each law enforcement officer shall not exceed the authorized rates as provided for in the State Travel Reimbursement Act.

9. Certify canines trained to detect controlled dangerous substances.

C. Failure of the Legislature to appropriate necessary funds to provide for expenses and operations of the Council on Law Enforcement Education and Training shall not invalidate other provisions of this section relating to the creation and duties of the Council.

D. 1. No person shall be eligible to complete a basic police course approved by the Council until the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported to the submitting agency that such person has no felony record, and the employing agency has reported to the Council that such person has undergone psychological testing as provided for in paragraph 2 of this subsection and after ~~the effective date of this act~~ November

1, 1985, the applicant has certified he has a high school diploma or a GED equivalency certificate.

2. No person shall be certified as a police or peace officer in this state unless the employing agency has reported to the Council that:

- a. the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported that such person has no record of a conviction of a felony or crime involving moral turpitude,
- b. such person has undergone evaluation similar to the Minnesota Multiphasic Personality Inventory or its equivalent, as determined by the Council on Law Enforcement Education and Training, and
- c. such person possesses a high school diploma or a GED equivalency certificate, provided this requirement shall not affect those persons who are already employed as a police or peace officer on the effective date of this section,

and the Council has determined that such person has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies and not less than three hundred (300) hours for full-time salaried police or peace officers from the Council or curriculum or course of study approved by the Council.

3. Every person who has not been certified as a police or peace officer and is duly appointed or elected as a police or peace officer shall hold such position on a temporary basis only, and shall, within one (1) year from the date of appointment or taking office, qualify as required in this subsection or forfeit such position. In computing the one (1) year, all service shall be cumulative from date of first appointment or taking office as a police or peace officer with any department in this state. The

Council may extend the time requirement specified in this paragraph for good cause as determined by the Council. An elected police or peace officer shall be eligible to enroll in a basic police course in accordance with this subsection upon his election. A duty is hereby imposed upon the employing agency to withhold payment of the compensation or wage of said unqualified officer. If the police or peace officer fails to forfeit his position or the employing agency fails to require the officer to forfeit his position, the district attorney shall file the proper action to cause the forfeiting of such position. The district court of the county where the officer is employed shall have jurisdiction to hear the case.

4. The Council may certify officers who have completed a course of study in another state deemed by the Council to meet standards for Oklahoma peace officers.

5. The Council may continue certification of full-time peace officers who retire from service after the effective date of this act, provided, the retired officer continues to meet the standards for Oklahoma peace officers.

6. For purposes of this section, a police or peace officer is defined as a full-time duly appointed or elected officer who is paid for working more than twenty-five (25) hours per week and whose duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, and enforce laws and ordinances of this state, or any political subdivision thereof; provided elected sheriffs and their deputies and elected and appointed chiefs of police shall meet the requirements of this subsection within the first twelve (12) months after assuming the duties of the office to which they are elected or appointed; provided further that this section shall not apply to persons designated by the Director of the Department of Corrections as peace officers pursuant to Section 510 of Title 57 of the Oklahoma Statutes.

E. No person shall be certified as a police or peace officer by the Council or be employed by the state, a county, a city, or any political subdivision thereof, who has been convicted of a felony or a crime involving moral turpitude unless he has been granted a full pardon by the proper agency; however, any person who has been trained and certified by the Oklahoma Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of ~~the effective date of this act~~ May 8, 1989, shall not be subject to the provisions of this subsection for convictions occurring prior to ~~the effective date of this act~~ May 8, 1989.

F. Every person employed as a police or peace officer in this state shall be fingerprinted by the law enforcement agency employing such person. One set of said impressions shall be mailed to the Oklahoma State Bureau of Investigation and one set to the Federal Bureau of Investigation, Washington, D.C. within ten (10) days from the initial date of employment.

G. 1. The Council is hereby authorized to provide to any employing agency the following information regarding a person who is or has applied for employment as a police or peace officer of such employing agency:

- a. Oklahoma State Bureau of Investigation and Federal Bureau of Investigation reports,
- b. administration of the psychological tests provided for herein,
- c. performance in the course of study or other basis of certification,
- d. previous certifications issued, and
- e. any administrative or judicial determination denying certification.

2. An employing agency shall not be liable in any action arising out of the release of contents of personnel information relevant to the qualifications or ability of a

person to perform the duties of a police or peace officer when such information is released pursuant to written authorization for release of information signed by such person and is provided to another employing agency which has employed or has received an application for employment from such person.

H. A law enforcement agency employing police or peace officers in this state shall report the hiring, retirement, resignation, or termination for any reason of a police or peace officer to the Council at a time established by the Council. Failure to comply with the provisions of this subsection may disqualify a law enforcement agency from participating in training programs sponsored by the Council.

I. As used in this section, "employing agency" means a political subdivision or law enforcement agency which either has employed or received an employment application from a person who, if employed, would be subject to this section.

J. Revocation of certification proceedings shall be commenced by filing with the Council a complaint, on a form approved by the Council, verified by the complainant. The sole issue to be determined at the hearing shall be whether the person has been convicted of a felony or crime involving moral turpitude.

Upon the filing of the verified complaint, the Council's Executive Director shall conduct a preliminary investigation to determine, in his judgment, whether there is reason to believe the person has been convicted of a felony or crime involving moral turpitude. If the Executive Director does not find there is reason to believe the person has been so convicted, the person shall remain certified. The proceedings for the revocation of certification shall be in accordance with the Administrative Procedures Act, Sections 301 through 325 of Title 75 of the Oklahoma Statutes.

K. The Council shall revoke the certification of any person upon determining that such person has been convicted of a felony or crime involving moral turpitude; provided, that if the conviction has been reversed, vacated or otherwise invalidated by an appellate court, such conviction shall not be the basis for revocation of certification; provided further, that any person who has been trained and certified by the Oklahoma Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of ~~the effective date of this act~~ May 8, 1989, shall not be subject to the provisions of this subsection for convictions occurring prior to ~~the effective date of this act~~ May 8, 1989.

L. 1. Every canine in the state trained to detect controlled dangerous substances shall be certified in the detection of such controlled dangerous substances and shall be recertified annually so long as the canine is used for such detection purposes. The certification and annual recertification provisions of this subsection shall not be applicable to canines that are owned by a law enforcement agency and that are certified and annually recertified in the detection of controlled dangerous substances by the United States Custom Service.

2. The fee for certification shall be Two Hundred Dollars (\$200.00) and the annual recertification fee shall be One Hundred Dollars (\$100.00) per canine. No such fee shall be charged to any local, state or federal government agency. The fees provided for in this paragraph shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

SECTION 2. AMENDATORY Section 1, Chapter 292, O.S.L. 1990 (70 O.S. Supp. 1990, Section 3311.4), is amended to read as follows:

Section 3311.4 A. Beginning January 1, 1991, and annually thereafter, every active full-time peace officer, certified by the

Council on Law Enforcement Education and Training pursuant to Section 3311 of this title, and every retired full-time peace officer desiring to remain certified by the Council, shall attend and complete a minimum of eight (8) hours of continuing law enforcement training accredited or provided by the Council. The Council shall promulgate rules to enforce the provisions of this section and shall enter into contracts and agreements for the payment of classroom space, training, food, and lodging expenses as may be necessary for law enforcement officers attending such training in accordance with subsection B of Section 3311 of this title. Such training and seminars shall be conducted in all areas of this state at vocational-technical schools, institutions of higher education, or other approved sites.

B. Every inactive full-time peace officer, certified by the Council, shall be exempt from these requirements during the inactive status. Upon re-entry to full-time active status, the peace officer shall be required to comply with paragraph A of this section. If a certified peace officer has been inactive for five (5) or more years, the officer must complete forty (40) hours of refresher training as prescribed by the Council, within one (1) year of employment.

C. Any active full-time certified peace officer, or any retired full-time peace officer desiring to remain certified by the Council, who fails to meet the annual training requirements specified in this section, shall be subject to having the certification of the peace officer suspended, after having been given written notice of noncompliance and a reasonable time, as defined by the Council, to comply with the provisions of this section. A peace officer shall not be employed in the capacity of a peace officer during any period of suspension. The suspension period shall be for a period of time until the officer files a statement attesting to full compliance with the provisions of this section. Any officer whose

certification is suspended pursuant to this section may request a hearing with the Council. Said hearings shall be governed by the Administrative Procedures Act, Sections 250 et seq. and 301 et seq. of Title 75 of the Oklahoma Statutes, except that the affected officer has the burden to show the Council why the Council should not have the certification of the officer suspended.

SECTION 3. This act shall become effective September 1, 1991.

43-1-562

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