

HOUSE BILL NO. 142

INTRODUCED BY M. DUNWELL

BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF CORRECTIONS TO APPOINT CRIMINAL INVESTIGATORS WITH LIMITED PEACE OFFICER STATUS TO INVESTIGATE ALLEGED VIOLATIONS IN SECURE FACILITIES; AMENDING SECTIONS 7-32-303 AND 19-8-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Appointment of criminal investigators. (1) The department of corrections may appoint criminal investigators with the authority to investigate alleged criminal violations by offenders incarcerated in or by persons employed by secure facilities, programs, or regional or private secure facilities operated by or under contract with the department of corrections. Any investigator appointed by the department of corrections must be a person qualified by experience, training, and high professional competence in criminal investigation. Each criminal investigator shall meet all the requirements of 7-32-303.

(2) A criminal investigator appointed by the department of corrections is subject to the requirements established by the Montana public safety officer standards and training council provided for in 2-15-2029.

Section 2. Section 7-32-303, MCA, is amended to read:

"7-32-303. Peace officer employment, education, and certification standards -- suspension or revocation -- penalty. (1) For purposes of this section, unless the context clearly indicates otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game warden, park ranger, campus security officer, department of corrections criminal investigator, or airport police officer.

(2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person authorized by law to appoint peace officers in this state may not appoint any person as a peace officer who does not meet the following qualifications plus any additional qualifying standards for employment promulgated by the Montana public safety officer standards and training council established in 2-15-2029:

(a) be a citizen of the United States;



- 1 (b) be at least 18 years of age;
- 2 (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any
3 criminal record;
- 4 (d) not have been convicted of a crime for which the person could have been imprisoned in a federal or
5 state penitentiary;
- 6 (e) be of good moral character, as determined by a thorough background investigation;
- 7 (f) be a high school graduate or have passed the general educational development test and been issued
8 an equivalency certificate by the superintendent of public instruction or by an appropriate issuing agency of
9 another state or of the federal government;
- 10 (g) be examined by a licensed physician, who is not the applicant's personal physician, appointed by the
11 employing authority to determine if the applicant is free from any mental or physical condition that might adversely
12 affect performance by the applicant of the duties of a peace officer;
- 13 (h) successfully complete an oral examination conducted by the appointing authority or its designated
14 representative to demonstrate the possession of communication skills, temperament, motivation, and other
15 characteristics necessary to the accomplishment of the duties and functions of a peace officer; and
- 16 (i) possess or be eligible for a valid Montana driver's license.
- 17 (3) At the time of appointment, a peace officer shall take a formal oath of office.
- 18 (4) Within 10 days of the appointment, termination, resignation, or death of any peace officer, written
19 notice of the event must be given to the Montana public safety officer standards and training council by the
20 employing authority.
- 21 (5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing authority to
22 cause each peace officer appointed under its authority to attend and successfully complete, within 1 year of the
23 initial appointment, an appropriate peace officer basic course certified by the Montana public safety officer
24 standards and training council. Any peace officer appointed after September 30, 1983, who fails to meet the
25 minimum requirements as set forth in subsection (2) or who fails to complete the basic course as required by this
26 subsection (5)(a) forfeits the position, authority, and arrest powers accorded a peace officer in this state.
- 27 (b) A peace officer who has been issued a basic certificate by the Montana public safety officer
28 standards and training council and whose last date of employment as a peace officer was less than 36 months
29 prior to the date of the person's present appointment as a peace officer is not required to fulfill the basic
30 educational requirements of subsection (5)(a). If the peace officer's last date of employment as a peace officer

1 was 36 or more but less than 60 months prior to the date of present employment as a peace officer, the peace
2 officer may satisfy the basic educational requirements as set forth in subsection (5)(c).

3 (c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a basic peace
4 officer's course that is taught by a federal, state, or United States military law enforcement agency and that is
5 reviewed and approved by the Montana public safety officer standards and training council as equivalent with
6 current training in Montana and whose last date of employment as a peace officer or member of the military law
7 enforcement was less than 60 months prior to the date of present appointment as a peace officer may, within 1
8 year of the peace officer's present employment or initial appointment as a peace officer within this state, satisfy
9 the basic educational requirements by successfully completing a basic equivalency course administered by the
10 Montana law enforcement academy. The prior employment of a member of the military law enforcement must
11 be reviewed and approved by the Montana public safety officer standards and training council. If the peace officer
12 fails the basic equivalency course, the peace officer shall complete the appropriate basic equivalency course
13 within 120 days of the date of the failure of the equivalency course.

14 (6) The Montana public safety officer standards and training council may extend the 1-year time
15 requirements of subsections (5)(a) and (5)(c) upon the written application of the peace officer and the appointing
16 authority of the officer. The application must explain the circumstances that make the extension necessary.
17 Factors that the council may consider in granting or denying the extension include but are not limited to illness
18 of the peace officer or a member of the peace officer's immediate family, absence of reasonable access to the
19 basic equivalency course, and an unreasonable shortage of personnel within the department. The council may
20 not grant an extension to exceed 180 days.

21 (7) A peace officer who has successfully met the employment standards and qualifications and the
22 educational requirements of this section and who has completed a 1-year probationary term of employment must,
23 upon application to the Montana public safety officer standards and training council, be issued a basic certificate
24 by the council, certifying that the peace officer has met all the basic qualifying peace officer standards of this
25 state.

26 (8) It is unlawful for a person whose certification as a peace officer, detention officer, or detention center
27 administrator has been revoked or suspended by the Montana public safety officer standards and training council
28 to act as a peace officer, detention officer, or detention center administrator. A person convicted of violating this
29 subsection is guilty of a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the
30 county jail or by a fine not to exceed \$500, or both."

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Section 3. Section 19-8-301, MCA, is amended to read:

"19-8-301. Membership -- inactive vested members -- inactive nonvested members. (1) Except as provided in 19-8-302, the following state peace officers must be covered under the game wardens' and peace officers' retirement system and, beginning on the first day of employment, must become and shall remain active members for as long as they are employed as peace officers:

- (a) game wardens who are assigned to law enforcement in the department of fish, wildlife, and parks;
- (b) motor carrier officers employed by the department of transportation;
- (c) campus security officers employed by the university system;
- (d) wardens and deputy wardens employed by the department of corrections;
- (e) corrections officers employed by the department of corrections;
- (f) probation and parole officers employed by the department of corrections;
- (g) department of corrections criminal investigators;
- ~~(g)~~(h) stock inspectors and detectives employed by the department of livestock; and
- ~~(h)~~(i) drill instructors employed by the department of corrections.

(2) (a) An inactive member with at least 5 years of membership service is an inactive vested member and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this chapter.

(b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit, the lump-sum payment consists of only the member's accumulated contributions and not the employer's contributions.

(3) (a) An inactive member with less than 5 years of membership service is an inactive nonvested member and is not eligible for any benefits from the retirement system.

(b) An inactive nonvested member is eligible only for a refund of the member's accumulated contributions."

NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 7, chapter 32, part 3, and the provisions of Title 7, chapter 32, part 3, apply to [section 1].

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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