

HOUSE BILL NO. 28

INTRODUCED BY F. FLEMING

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT FOR THE BOARD OF CRIME CONTROL TO HEAR APPEALS FROM DECISIONS MADE BY THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL; AND AMENDING SECTIONS 44-4-403 AND 44-7-101, MCA."

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

Section 1. Section 44-4-403, MCA, is amended to read:

"44-4-403. Council duties -- determinations -- appeals. (1) The council shall:

- (a) establish basic and advanced qualification and training standards for employment;
- (b) conduct and approve training; and
- (c) provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

(2) The council may waive or modify a qualification or training standard for good cause.

(3) A person who has been denied certification or recertification or whose certification or recertification has been suspended or revoked is entitled to a contested case hearing before the council pursuant to Title 2, chapter 4, part 6, ~~except that a decision by the council may be appealed to the board of crime control, as provided for in 44-7-101.~~ A decision of the board of crime control council is a final agency decision subject to judicial review.

(4) The council is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining and retaining confidential criminal justice information, as defined in 44-5-103, regarding public safety officers in order to provide for the certification or recertification of a public safety officer and for the suspension or revocation of certification of a public safety officer. The council may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5."

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Section 2. Section 44-7-101, MCA, is amended to read:

"44-7-101. Functions. ~~(1)~~As designated by the governor as the state planning agency under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the board of crime control shall perform the functions assigned to it under that act. The board shall also provide to criminal justice agencies technical assistance and supportive services that are approved by the board or assigned by the governor or legislature.

~~(2) The board shall consider all appeals brought from decisions of the Montana public safety officer standards and training council pursuant to 44-4-403. A board member designated as a member of the Montana public safety officer standards and training council, as provided in 44-4-402, may not participate in appeals brought to the board from decisions of the council. The board shall promulgate rules governing the manner and method of the appeals."~~

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