

# HOUSE BILL REPORT

## ESHB 1369

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### As Amended by the Senate

**Title:** An act relating to off-duty employment of fish and wildlife officers.

**Brief Description:** Concerning off-duty employment of fish and wildlife officers.

**Sponsors:** House Committee on Community Safety, Justice, & Reentry (originally sponsored by Representatives Griffey, Bronoske, Riccelli, Maycumber, Couture, Abbarno, Volz, Barkis, Christian and Leavitt).

#### Brief History:

##### Committee Activity:

Community Safety, Justice, & Reentry: 1/30/23, 2/9/23 [DPS].

##### Floor Activity:

Passed House: 3/4/23, 96-0.

Senate Amended.

Passed Senate: 4/11/23, 49-0.

#### Brief Summary of Engrossed Substitute Bill

- Permits Washington Department of Fish and Wildlife (WDFW) officers to engage in off-duty employment.
- Requires the Chief of the WDFW law enforcement to adopt guidelines to ensure integrity and professionalism.
- Requires officers to complete training prior to off-duty employment on reservation, trust, or allotted lands.
- Specifies the state is not liable for tortious conduct by off-duty WDFW officers.

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### HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Signed by 9 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

**Staff:** Martha Wehling (786-7067).

**Background:**

Washington Department of Fish and Wildlife (WDFW) officers have the same police powers and duties as sheriffs and peace officers, making them general authority peace officers. A sheriff has the authority to arrest persons committing public offenses, protect public safety, execute court orders and warrants, attend court proceedings, and keep and preserve the peace within their county.

Law enforcement personnel are general authority Washington peace officers. There are multiple definitions of peace officers. A general peace officer is an officer of a state or local government or agency whose primary function is violations of traffic or criminal laws. The Washington State Patrol and the WDFW are general authority law enforcement agencies. There are also limited authority peace officers, federal peace officers, specially commissioned peace officers, and reserve peace officers, which have different authorities than general authority officers.

A peace officer's primary agency has liability for the officer's exercise of authority unless the officer is acting under the direction of another agency or another agency assumes liability pursuant to a written agreement with the primary agency. The WDFW has liability for its officers' exercise of authority unless the WDFW officer is acting under the direction of another agency or another agency assumes liability pursuant to an agreement with the WDFW.

All general authority peace officers are required to successfully complete the Criminal Justice Training Commission's Basic Law Enforcement Training within a specified time after being hired. Depending on the officer's employing agency, additional training is also required. Beginning in 2019, general authority peace officers are required to receive violence de-escalation and mental health training within a specified time after being hired and through periodic continuing training. All new general authority peace officers must complete 200 hours of violence de-escalation and mental health training within 15 months. After initial training, officers must complete 40 hours of training every three years on de-escalation and mental health. Under existing Criminal Justice Training Commission rules, violence de-escalation and mental health training includes, among other subjects, the history of police interaction with Native American communities, including tribal sovereignty, tribal culture and traditions, and notification of tribal governments when a tribal person is killed or injured.

A newly-hired WDFW officer must attend Basic Law Enforcement Academy within six

months, and, pursuant to rule, receive 200 hours of violence de-escalation and mental health training within 15 months. A WDFW officer hired before December 2019 must complete the first three-year cycle of violence de-escalation and mental health training by January 1, 2028.

**Summary of Engrossed Substitute Bill:**

The Chief of the WDFW enforcement is required to adopt guidelines that ensure preservation of the integrity and professionalism when officers choose to participate in off-duty employment. Officers may wear their uniforms or plainclothes. If an officer accepts off-duty employment on reservation, trust, or allotted lands of a federally-recognized Indian tribe, the officer must complete the Criminal Justice Training Commission's violence de-escalation and mental health training.

The State of Washington is not liable for tortious conduct by the WDFW officers who engage in private off-duty law enforcement. Prior to engaging in private employment, the WDFW officers must provide the private employer with written notice of this limitation.

**EFFECT OF SENATE AMENDMENT(S):**

A private employer of a Department of Fish and Wildlife off-duty officer must obtain permission from a federally-recognized Indian tribe before the officer may work on reservation, trust, or allotted lands of the tribe.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The Washington State Patrol is permitted to work off-duty for events like the Mariners, Seahawks, and concerts in eastern Washington. The bill allows WDFW officers who are similarly fully commissioned officers who have also completed Basic Academy to engage in the same activities.

(Opposed) None.

(Other) General authority officers have the duty to preserve life and prevent terrorism. Allowing the WDFW officers to work off-duty ensures the safety of the public. An off-duty officer will sign a document that clarifies the officer's first priority is to the employing agency, ensuring the agency's needs are met first and foremost. While overwork has long

been a concern of the Chief of the WDFW law enforcement, it has been addressed numerous times through current policies. Officers are currently only working a few events off-duty.

**Persons Testifying:** (In support) Representative Dan Griffey, prime sponsor.

(Other) Erik Olson, Washington Department of Fish and Wildlife.

**Persons Signed In To Testify But Not Testifying:** None.