

# HOUSE BILL REPORT

## ESHB 1369

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### As Passed Legislature

**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.

House Concurred.

Passed House: 4/13/23, 96-0.

Passed Legislature.

#### **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 preserve 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 officers.

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

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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.*

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

Law enforcement personnel include general authority Washington peace officers. A general peace officer is an officer of a state or local government or agency whose primary function is to enforce violations of traffic or criminal laws. The Washington State Patrol and the Washington Department of Fish and Wildlife (WDFW) are general authority law enforcement agencies. Absent authorization, state officers and employees may not use official resources for private benefit or gain.

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

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 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. Officers must complete 40 hours of training every three years on de-escalation and mental health. 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. Under 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.

**Summary of Engrossed Substitute Bill:**

WDFW officers may engage in private law enforcement off-duty employment. The Chief of the WDFW law enforcement is required to adopt guidelines that ensure preservation of the integrity and professionalism when WDFW officers choose to participate in off-duty employment. Officers may wear their uniforms or plainclothes when employed off-duty.

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, including the curriculum of the history of police interactions with Native American communities. In addition, the private employer must obtain permission from the affected tribe.

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.

**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.