

☐ EXPEDITE
☒ No hearing set
☐ Hearing is set

Date: _____

Time: _____

Judge: _____

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

WASHINGTON STATE SHERIFF'S
ASSOCIATION and RICK KUSS,

26-2-02079-34

Plaintiffs,

v.

STATE OF WASHINGTON, WASHINGTON
STATE CRIMINAL JUSTICE TRAINING
COMMISSION, JERRELL WILLS, in his
official capacity as the Executive Director of
the Washington State Criminal Justice Training
Commission, WASHINGTON STATE
PATROL, and CHIEF JOHN R. BATISTE, in
his official capacity as the Chief of the
Washington State Patrol,

CORRECTED
COMPLAINT FOR DECLARATORY
JUDGMENT AND INJUNCTIVE RELIEF

Defendant.

I. INTRODUCTION.

1. This lawsuit seeks a declaration that Sections 9, 11, 12, 13, and 14 of 2026's Second Substitute Senate Bill 5974, Chapter 258, Laws of 2026 ("2SSB 5974" or "the Act") are unconstitutional as applied to sheriffs and candidates for sheriff, and an injunction against the enforcement of those sections.

II. PARTIES.

2. Plaintiff Washington State Sheriff's Association comprises the 39 sheriffs of Washington State.
3. Formed in 1984, the mission of the Washington State Sheriff's Association (WSSA) is to promote ethics, professionalism, leadership development, training and dialogue among its members and the law enforcement community.

1 4. Plaintiff Rick Kuss is a past candidate for sheriff in Kitsap County, Washington who is running
2 for Kitsap County Sheriff again in 2026.

3 5. Defendant is the State of Washington, the Washington State Criminal Justice Training
4 Commission, Jerrell Wills, sued in his official capacity as the Interim Executive Director of the
5 Washington State Criminal Justice Training Commission, the Washington State Patrol, and
6 John R. Batiste, in his official capacity as the Chief of the Washington State Patrol.

7 **III. JURISDICTION AND VENUE.**

8 6. This Court has jurisdiction over this matter pursuant to chapter 2.08 RCW and chapter 7.24
9 RCW.

10 7. Venue is proper in this Court pursuant to RCW 4.92.010.

11 **IV. FACTS.**

12 8. 2SSB 5974 was signed into law on April 1, 2026.

13 **A. The WSSA And Its Members.**

14 9. All thirty-nine sheriffs in Washington are members of the WSSA.

15 10. Sheriffs hold a wide variety of political views, and are members of a wide variety of
16 organizations, both professionally and in their personal capacity.

17 11. Many sheriffs post on social media concerning the operations of their offices as well as on topics
18 concerning state and national politics.

19 12. Aspects of the Act detailed below will chill current and future sheriffs from engaging in
20 constitutionally protected expression and association.

21 **B. Candidate Rick Kuss.**

22 13. Plaintiff Kuss is a retired U.S. Navy Lieutenant Commander and current Deputy Sheriff in the
23 King County Sheriff's Office.

24 14. During his 24-year military career, Kuss served, among other roles, as a Security Force
25 Certifying Official and Security Force Supervisor and gained experience as an Anti-Terrorism
26 and Force Protection Officer.

- 1 15. Following his military retirement in May 2022, Kuss ran for Kitsap County Sheriff in the 2022
2 election cycle, earning 50,880 votes.
- 3 16. He then transitioned into law enforcement and was hired by the King County Sheriff's Office
4 on April 17, 2023.
- 5 17. He was commissioned as a Washington State Certified Peace Officer on October 3, 2023, and
6 currently serves as a deputy sheriff.
- 7 18. Kuss holds a Master's degree in Criminal Justice from Michigan State University.
- 8 19. Kuss filed to run for Sheriff of Kitsap County with the Washington State Public Disclosure
9 Commission (PDC) for the 2026 election cycle on November 12, 2025.
- 10 20. Section 9(1)(h) of the Act requires "five years of experience with a government law
11 enforcement agency."
- 12 21. The Act defines a "government law enforcement agency" as a general authority or limited
13 authority Washington law enforcement agency, as defined in RCW 10.93.020, or a state or
14 federal governmental agency authorized by law to engage in or supervise the prevention,
15 detection, investigation, prosecution, or incarceration related to violations of law.
- 16 22. Based on Section 9(1)(h), Kuss is disqualified from filing for candidacy for the office of sheriff
17 because he does not have 5 years of experience with the a "government law enforcement
18 agency."

19 **C. Prior Law.**

- 20 23. Prior to enactment, RCW 36.28.025 required only that a person who filed a declaration of
21 candidacy for the office of sheriff after September 1, 1979, obtain a certificate of completion of
22 a basic law enforcement training program within twelve months of assuming office. 2SSB 5974,
23 § 9.
- 24 24. The prior law did not apply to persons holding the office of sheriff in any county on September
25 1, 1979. 2SSB 5974, § 9.
- 26
- 27

1 **D. Section 9—Eligibility And Background Checks.**

2 **1. New Eligibility Requirements—Section 9(1).**

3 25. Section 9 strikes the prior text of RCW 36.28.025 in its entirety and replaces it with new
4 subsections (1) through (5). 2SSB 5974, § 9.

5 26. New subsection (1) provides that a person filing for candidacy for the office of sheriff, or
6 seeking appointment to the office of sheriff, is eligible for election, appointment, holding office,
7 and remaining in that office only if the person meets each of the requirements set forth in
8 subsections (1)(a) through (1)(j). 2SSB 5974, § 9(1).

9 27. Subsection (1)(a) requires that the person be a citizen of the United States of America. 2SSB
10 5974, § 9(1)(a).

11 28. Subsection (1)(b) requires that the person be at least 25 years old. 2SSB 5974, § 9(1)(b).

12 29. Subsection (1)(c) requires that the person have obtained a high school diploma or high school
13 equivalency certificate as provided in RCW 28B.50.536. 2SSB 5974, § 9(1)(c).

14 30. Subsection (1)(d) requires that the person not have been convicted of a felony under the laws
15 of this state, another state, the United States, or the substantial equivalent under foreign law.
16 2SSB 5974, § 9(1)(d).

17 31. Subsection (1)(e) requires that the person not have been convicted of a gross misdemeanor
18 under the laws of this state, another state, the United States, or the substantial equivalent under
19 foreign law, unless the conviction has been vacated. 2SSB 5974, § 9(1)(e).

20 32. Subsection (1)(f) requires that the person not have engaged in, and not engage in, conduct
21 meeting the criteria requiring denial or revocation of certification set forth in RCW
22 43.101.105(2). 2SSB 5974, § 9(1)(f).

23 33. Subsection (1)(g) requires that the person, if the person was in the military service, have
24 received at least a general discharge under honorable conditions from any branch of the armed
25 services. 2SSB 5974, § 9(1)(g).

1 34. Subsection (1)(h) requires that the person have completed at least five years of regular, full-
2 time law enforcement employment, involving enforcement responsibilities with a government
3 law enforcement agency, as defined in subsection (4). 2SSB 5974, § 9(1)(h).

4 35. Subsection (1)(i) requires that the person, within nine months of assuming office (unless
5 otherwise extended by the Criminal Justice Training Commission), have obtained certification,
6 thereafter maintain certification as required under chapter 43.101 RCW and the rules of the
7 Commission, and never have had their certification denied, revoked, or voluntarily
8 surrendered, and not reinstated, by any other state. 2SSB 5974, § 9(1)(i).

9 36. Subsection (1)(j) requires that the person, except as provided in subsection (5), have completed
10 a background check verifying that the person has met the requirements of subsections (1)(a)
11 through (1)(i) prior to the election filing deadline, within 30 days after certification of the
12 election results, or at the time of appointment. 2SSB 5974, § 9(1)(j).

13 **2. Background Check Procedures—Section 9(2).**

14 37. New subsection (2)(a) requires that, for any person filing for candidacy or elected to the office
15 of sheriff, the Washington State Patrol must conduct the background check verifying eligibility.
16 2SSB 5974, § 9(2)(a).

17 38. The State Patrol must complete the background check no later than the election filing deadline,
18 or, if the request is made too close to the deadline, no later than 30 days after the date of
19 certification of the election results. 2SSB 5974, § 9(2)(a).

20 39. A person filing for candidacy for the office of sheriff must submit a background check request
21 to the Washington State Patrol within six months of, and up to, the deadline for filing for
22 election, and must provide with the request the attestation required by subsection (3). 2SSB
23 5974, § 9(2)(a).

24 40. Once the State Patrol completes the background check, it must submit confirmation to the
25 Criminal Justice Training Commission that the person has or has not passed the background
26 check verifying eligibility, and that confirmation is a public record. 2SSB 5974, § 9(2)(a).

- 1 41. Subsection (2)(b) requires that, immediately following the filing deadline, the Criminal Justice
2 Training Commission post on its public website a list of all candidates for sheriff who have
3 submitted the request for a background check and the attestation, and each candidate who has
4 passed the required background check. 2SSB 5974, § 9(2)(b).
- 5 42. Subsection (2)(c)(i) requires the Washington State Patrol to develop and provide on its
6 website, by May 1, 2026, a standard form and process for persons filing for candidacy for the
7 office of sheriff to use in requesting the required background check, including submission of
8 fingerprints and all information necessary to conduct state and national criminal history record
9 checks. 2SSB 5974, § 9(2)(c)(i).
- 10 43. Subsection (2)(c)(i) further requires the Washington State Patrol to submit the fingerprints to
11 the Federal Bureau of Investigation for a comparison with nationwide records, as required and
12 authorized under P.L. 92-544. 2SSB 5974, § 9(2)(c)(i).
- 13 44. Subsection (2)(c)(ii) provides that, for the purpose of the Washington State Patrol accessing
14 state and national criminal history record information, any person who is not certified, filing
15 for candidacy for the office of sheriff, elected to the office of sheriff, or seeking appointment to
16 the office of sheriff is deemed an applicant for peace officer certification eligibility under
17 chapter 43.101 RCW. 2SSB 5974, § 9(2)(c)(ii).
- 18 45. Subsection (2)(c)(ii) further provides that completion of the state and national criminal history
19 record check is a mandatory condition of the person's candidacy, election, or appointment.
20 2SSB 5974, § 9(2)(c)(ii).
- 21 46. Subsection (2)(d) provides that, in the case of appointment, the background check verifying
22 eligibility must be completed by the appointing authority no earlier than six months prior to the
23 date of appointment. 2SSB 5974, § 9(2)(d).
- 24 47. Subsection (2)(d) further requires the appointing authority to submit confirmation to the
25 Criminal Justice Training Commission that the background check verified that the person
26 meets the eligibility requirements, and provides that such confirmation is a public record. 2SSB
27 5974, § 9(2)(d).

1 48. Subsection (2)(e) provides that the county in which a person is seeking appointment or election
2 to the office of sheriff is responsible for any costs associated with the background check
3 required by the section. 2SSB 5974, § 9(2)(e).

4 **3. Attestation and Public Posting—Section 9(3).**

5 49. New subsection (3) requires that a person seeking election or appointment to the office of
6 sheriff provide a sworn statement under penalty of perjury to the State Patrol or to the
7 appointing authority stating that the person meets the requirements of the section. 2SSB 5974,
8 § 9(3).

9 50. Subsection (3) further requires the State Patrol, or the appointing authority, upon completion
10 of the background check, to attest as part of the public record that the requirements of the
11 section have been met. 2SSB 5974, § 9(3).

12 51. Subsection (3) requires the Criminal Justice Training Commission, after the election but no
13 later than 60 days following the election, to post on its public website a list of sheriffs who have
14 completed the background check, and whether each passed or failed. 2SSB 5974, § 9(3).

15 **4. Definitions—Section 9(4).**

16 52. New subsection (4) defines “government law enforcement agency” to mean a general
17 authority Washington law enforcement agency or a limited authority Washington law
18 enforcement agency as defined in RCW 10.93.020, or a state or federal governmental agency
19 that is authorized by law to engage in or supervise the prevention, detection, investigation, or
20 prosecution of, or the incarceration of any person for, any violation of law. 2SSB 5974, § 9(4).

21 **5. Grandfathering Provision—Section 9(5).**

22 53. New subsection (5) provides that the requirement of five years of experience with a
23 government law enforcement agency and the age requirement in subsection (1) do not apply to
24 any person who is holding the office of sheriff as of the effective date of the section, unless the
25 person seeks election or appointment to a different office of sheriff. 2SSB 5974, § 9(5).

26 54. Subsection (5) further provides that all other eligibility requirements apply as of the effective
27 date of the section. 2SSB 5974, § 9(5).

E. Section 11—New Section Added to Chapter 36.28 RCW.

55. Section 11 adds a new section to chapter 36.28 RCW establishing automatic vacancy provisions for the office of sheriff. 2SSB 5974, § 11.

56. New subsection (1) provides that, in addition to the causes for vacancy of elective office set forth in RCW 42.12.010, a vacancy in the office of sheriff is created if the incumbent does not maintain certification as required under chapter 43.101 RCW. 2SSB 5974, § 11(1).

57. Subsection (1) further provides that a vacancy is created if the incumbent is decertified pursuant to a final decision by the Criminal Justice Training Commission under chapter 43.101 RCW or a final decision on appeal. 2SSB 5974, § 11(1).

58. Subsection (1) further provides that a vacancy is created if the other requirements of RCW 36.28.025 have not been met or have not been complied with while in office. 2SSB 5974, § 11(1).

59. Subsection (1) provides that when a vacancy has been created, the vacancy shall be filled pursuant to RCW 36.16.110, and the person appointed must meet the requirements of RCW 36.28.025. 2SSB 5974, § 11(1).

60. New subsection (2) provides that, where the office of sheriff is an appointed position, such appointment is terminated and a vacancy created if the incumbent does not maintain certification as required under chapter 43.101 RCW, is decertified pursuant to a final decision by the Criminal Justice Training Commission or a final decision on appeal, or if the other requirements of RCW 36.28.025 have not been met or have not been complied with while in office. 2SSB 5974, § 11(2).

61. Subsection (2) provides that the appointing county legislative authority shall appoint a replacement to fill the office, and the person appointed must meet the requirements of RCW 36.28.025. 2SSB 5974, § 11(2).

F. Section 12—Amendment to RCW 42.12.010.

62. Section 12 amends RCW 42.12.010, which sets forth the events causing every elective office to become vacant. 2SSB 5974, § 12.

63. Section 12 adds a new subsection (9) providing that every elective office shall become vacant whenever an elected law enforcement official does not maintain certification as required under chapter 43.101 RCW. 2SSB 5974, § 12(9).

64. New subsection (9) further provides that vacancy occurs whenever an elected law enforcement official has been decertified pursuant to a final decision by the Criminal Justice Training Commission under chapter 43.101 RCW or a final decision on appeal. 2SSB 5974, § 12(9).

65. New subsection (9) further provides that vacancy occurs if the other requirements of RCW 36.28.025 have not been met or have not been complied with while in office. 2SSB 5974, § 12(9).

G. Section 13—Amendment to RCW 43.101.095.

1. Certification as Condition of Holding Office—Section 13(1).

66. Section 13 amends RCW 43.101.095, which governs peace officer and corrections officer certification and background investigation requirements. 2SSB 5974, § 13.

67. Section 13 amends subsection (1)(a) to add that certification is required as a condition “of holding office” in addition to employment, and strikes the phrase “or exemption therefrom” from the existing certification requirement. 2SSB 5974, § 13(1)(a).

68. Section 13 adds a new subsection (1)(b) providing that, to ensure that sheriffs, police chiefs, and town marshals meet the requirements in RCW 35.21.333 and 36.28.025 to obtain certification within nine months of assuming office, the Commission must prioritize their access to any Commission training required for certification. 2SSB 5974, § 13(1)(b).

2. Background Investigation Requirements—Section 13(2).

69. Section 13 amends subsection (2)(a) to expand the scope of background investigation requirements to include any person being considered for appointment as a sheriff, police chief, or marshal, in addition to persons seeking employment as peace officers, reserve officers, corrections officers, or limited authority Washington peace officers. 2SSB 5974, § 13(2)(a).

1 70. Section 13 replaces the term “applicant” with “person” throughout subsection (2) and
2 replaces the term “background check” with “background investigation” throughout the
3 section. 2SSB 5974, § 13(2).

4 71. Section 13 amends subsection (2)(a) to require employing agencies and appointing authorities
5 to attest in writing to the Commission that they have complied with all background
6 investigation requirements prior to making any nonconditional offer of employment. 2SSB
7 5974, § 13(2)(a).

8 72. Section 13 amends subsection (2)(c) to change the Commission’s authority from discretionary
9 (“may”) to mandatory (“shall”) with respect to establishing standards for the background
10 investigation requirements. 2SSB 5974, § 13(2)(c).

11 73. Section 13 strikes former subsection (2)(d), which permitted employing law enforcement
12 agencies to require persons taking a psychological examination and a polygraph or similar test
13 to pay a portion of the testing fee based on the actual cost or \$400, whichever was less. 2SSB
14 5974, § 13.

15 **3. Certification Conditions—Section 13(4).**

16 74. Section 13 adds a new subsection (4)(c) requiring that, as a condition of certification and of a
17 background investigation, a peace officer or corrections officer must indicate on a form
18 provided by the hiring agency any prior application materials, including any background
19 investigation conducted while seeking employment with any other law enforcement agency,
20 including where the person began but did not complete a full background investigation. 2SSB
21 5974, § 13(4)(c).

22 **4. Attestation Before Certification or Appointment—Section 13(7).**

23 75. Section 13 amends subsection (7) to require the employing agency or appointing authority to
24 “attest” rather than “certify” to the Commission that the agency or appointing authority has
25 received or conducted a completed background investigation and that the person was
26 determined to be suitable for employment or appointment. 2SSB 5974, § 13(7).

1 76. Section 13 amends subsection (7) to add that the suitability determination applies to
2 appointment as a sheriff, chief, or marshal, in addition to employment as a peace officer or
3 corrections officer. 2SSB 5974, § 13(7).

4 **5. Confidentiality of Background Investigation—Section 13(8).**

5 77. Section 13 adds a new subsection (8) providing that all files, papers, and other information
6 obtained as part of the background investigation are confidential and exempt from public
7 disclosure under chapter 42.56 RCW. 2SSB 5974, § 13(8).

8 78. Subsection (8) provides that the verification by the Commission that the background
9 investigation has been completed, and whether it has been passed or failed, is a public record.
10 2SSB 5974, § 13(8).

11 79. Subsection (8) requires the Commission to retain background investigation files it receives.
12 2SSB 5974, § 13(8).

13 **6. Scope of Application—Section 13(9).**

14 80. Section 13 amends subsection (9) to add that the requirements of the section apply to a person
15 appointed or elected as a sheriff, chief, or marshal, in addition to new officers, lateral transfers,
16 and officers moving between corrections and law enforcement divisions. 2SSB 5974, § 13(9).

17 **7. Immunity—Section 13(10).**

18 81. Section 13 adds a new subsection (10) providing that every individual, legal entity, and agency
19 of federal, state, or local government is immune from civil liability, whether direct or derivative,
20 for providing information to the Commission, employing agencies, potential employing
21 agencies, or appointing authorities in good faith. 2SSB 5974, § 13(10).

22 **H. Section 14—Amendment to RCW 43.101.115.**

23 82. Section 14 amends RCW 43.101.115, which governs the denial, revocation, and reinstatement
24 of peace officer and corrections officer certification. 2SSB 5974, § 14.

25 83. Section 14 adds a new subsection (4) providing that any officer who is required to obtain and
26 maintain certification and who has had their certification denied, revoked, or voluntarily
27 surrendered and not reinstated in this state or any other state may not serve in any role as a

1 peace officer, corrections officer, limited authority Washington peace officer, specially
2 commissioned officer, or reserve officer. 2SSB 5974, § 14(4).

3 84. Section 14 renumbers former subsection (4) as subsection (5), which provides that a person
4 whose certification is denied or revoked for reasons other than provided in subsections (1)
5 through (3) may, five years after the revocation or denial, petition the Commission for
6 reinstatement of the certificate or for eligibility for reinstatement. 2SSB 5974, § 14(5).

7 85. Subsection (5) provides that the Commission may hold a hearing on the petition to consider
8 reinstatement, and may allow reinstatement based upon standards established in rules of the
9 Commission, and that if the certificate is reinstated or eligibility for certification is determined,
10 the Commission shall establish a probationary period of certification. 2SSB 5974, § 14(5).

11 86. Section 14 renumbers former subsection (5) as subsection (6), which provides that a person
12 whose certification is revoked based solely upon a criminal conviction may petition the
13 Commission for reinstatement immediately upon a final judicial reversal of the conviction.
14 2SSB 5974, § 14(6).

15 87. Section 14 renumbers former subsection (6) as subsection (7), which provides that the
16 Commission's rules and decisions regarding reinstatement shall align with its responsibilities
17 to enhance public trust and confidence in the law enforcement profession and correctional
18 system. 2SSB 5974, § 14(7).

19 V. CAUSES OF ACTION.

20 A. First Cause of Action: The Act Violates Article XI, Section 5 of the Washington 21 Constitution.

22 88. Article XI, Section 5 of the Washington Constitution provides that "[t]he legislature, by
23 general and uniform laws, shall provide for the election in the several counties of boards of
24 county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys and other
25 county, township or precinct and district officers, as public convenience may require, and shall
26 prescribe their duties, and fix their terms of office."
27

1 89. The office of sheriff is a constitutionally established elected office, named in Article XI, Section
2 5, which the people of each county are entitled to fill by election.

3 90. Article XI, Section 5 vests the power to prescribe qualifications for the office of sheriff
4 exclusively in the legislature, acting through “general and uniform laws.” The legislature may
5 not delegate the substantive power to determine who is eligible for a constitutionally
6 established elected office to an executive branch agency.

7 91. Sections 9 and 13 of the Act delegate to the Criminal Justice Training Commission and the
8 Washington State Patrol the authority to conduct background investigations that include
9 subjective, discretionary, and content-based evaluations—including a review of social media
10 accounts, inquiry into “past or present affiliations with extremist organizations as defined by
11 the commission,” a psychological examination “administered under commission standards,”
12 a polygraph or similar assessment “under commission standards,” and “any other test or
13 assessment required by commission rules”—the results of which determine whether a
14 candidate may appear on the ballot.

15 92. These provisions empower executive branch agencies to create their own substantive criteria
16 for ballot eligibility, going beyond the fixed, objective qualifications the legislature has specified
17 in statute. This is not the prescription of eligibility “by general and uniform laws”; it is a
18 delegation of standardless discretion to agencies to gatekeep access to a constitutionally
19 established elected office.

20 93. Sections 9 and 13 of the Act therefore violate Article XI, Section 5 of the Washington
21 Constitution.

22 **B. Second Cause of Action: The Act Violates the Right to Free and Equal Elections Under**
23 **Article I, Section 19 of the Washington Constitution.**

24 94. Article I, Section 19 of the Washington Constitution provides: “All Elections shall be free and
25 equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of
26 the right of suffrage.”
27

95. The right to vote is fundamental under both the United States and Washington constitutions. *Foster v. Sunnyside Valley Irrigation District*, 102 Wash.2d 395, 404 (1984). The Washington Constitution, unlike the federal constitution, specifically confers upon its citizens the right to “free and equal” elections. *Id.*
96. This guarantee protects not only the act of casting a ballot, but the integrity of the entire electoral process, including the right of citizens to choose from among all eligible candidates. “A fundamental principle in our democracy is ‘the people should choose whom they please to govern them’ and ‘this principle is undermined as much by limiting whom the people can select as by limiting the franchise itself.’” *Dumas v. Gagner*, 137 Wash.2d 268, 283 (1999) (quoting *Powell v. McCormack*, 395 U.S. 486 (1969)).
97. “[E]ligibility to an office in the state is to be presumed rather than to be denied, and ... any doubt as to the eligibility of any person to hold an office must be resolved against the doubt.” *Dumas*, 137 Wash.2d at 281 (quoting *State ex rel. Weston v. Schragg*, 158 Wash. 74, 78 (1930)).
98. Sections 9 and 13 of the Act interpose an executive branch agency between the candidate and the ballot, empowering the Criminal Justice Training Commission and the Washington State Patrol to determine—based on subjective, agency-defined criteria—whether a person may run for the constitutionally established elected office of sheriff.
99. This is precisely the kind of interference by a “civil power” that Article I, Section 19 was designed to prohibit.
100. The Act restricts who may run and, in so doing, limits whom the people may select, undermining the constitutional guarantee of free and equal elections.
101. The Act therefore violates Article I, Section 19 of the Washington Constitution.
- C. Third Cause of Action: The Act Violates the Right to Free Speech Under Article I, Section 5 of the Washington Constitution.**
102. Article I, Section 5 of the Washington Constitution provides: “Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.”

1 103. The Washington Supreme Court has interpreted this provision as providing protection that
2 is at least coextensive with the First Amendment to the United States Constitution and, in
3 some contexts, broader. The phrase “on all subjects” protects speech across the full range of
4 topics, without exception for political speech that an executive agency might find disqualifying.

5 104. Section 13 of the Act requires, as a condition of eligibility for the office of sheriff, a
6 mandatory “review of social media accounts” and an “inquiry into past or present affiliations
7 with extremist organizations as defined by the commission.” These provisions condition
8 access to a constitutionally established elected office on the content of a candidate’s speech
9 and the nature of a candidate’s associations—evaluations that are inherently content-based and
10 association-based.

11 105. A candidate is penalized not for any “abuse” of the right of free speech—which in
12 Washington historically refers to defamation-type liability imposed after the fact—but for the
13 content of speech the agency finds objectionable, before the candidate ever reaches the ballot.
14 This amounts to a prior restraint on core political speech.

15 106. The Act therefore violates Article I, Section 5 of the Washington Constitution.

16 **D. Fourth Cause of Action: The Act Violates the Right to Privacy Under Article I, Section**
17 **7 of the Washington Constitution.**

18 107. Article I, Section 7 of the Washington Constitution provides: “No person shall be disturbed
19 in his private affairs, or his home invaded, without authority of law.”

20 108. The Washington Supreme Court has repeatedly held that Article I, Section 7 provides
21 greater protection than the Fourth Amendment to the United States Constitution.

22 109. Section 13 of the Act requires, as conditions of eligibility for the office of sheriff, a review
23 of the candidate’s social media accounts, a psychological examination, a polygraph or similar
24 assessment, and “any other test or assessment required by commission rules.” Each of these
25 constitutes a government intrusion into the candidate’s private affairs.

26 110. The Act delegates to the Criminal Justice Training Commission the power to define the
27 scope and standards of these intrusions through its own rules, without legislatively prescribed

1 boundaries. Where the commission acts under self-created criteria rather than under specific
2 “authority of law,” the resulting disturbance of a candidate’s private affairs is unauthorized
3 within the meaning of Article I, Section 7.

4 111. The Act therefore violates Article I, Section 7 of the Washington Constitution.

5 **E. Fifth Cause of Action: The Act Violates the Privileges and Immunities Clause of Article**
6 **I, Section 12 of the Washington Constitution.**

7 112. Article I, Section 12 of the Washington Constitution provides: “No law shall be passed
8 granting to any citizen, class of citizens, or corporation other than municipal, privileges or
9 immunities which upon the same terms shall not equally belong to all citizens, or
10 corporations.”

11 113. “[S]ince the right to participate in the government is the common right of all, it is the
12 unqualified right of any eligible person within the state to aspire to any of these offices, and
13 equally the unqualified right of the people of the state to choose from among those aspiring the
14 persons who shall hold such offices.” *State ex rel. Weston v. Schragg*, 158 Wash. 74, 78 (1930),
15 quoted in *Dumas v. Gagner*, 137 Wash.2d at 281.

16 114. The Act creates an unequal classification among citizens seeking the office of sheriff by
17 conditioning ballot eligibility on criteria that inherently discriminate based on the content of a
18 candidate’s speech and associations.

19 115. Candidates who have been more expressive on social media, or who hold disfavored
20 viewpoints, face greater scrutiny and a higher risk of disqualification than candidates who have
21 been less publicly vocal or who hold views the reviewing agency finds acceptable.

22 116. The commission’s discretion to define “extremist organizations” and to establish its own
23 standards for psychological examinations, polygraphs, and “any other test or assessment”
24 compounds the problem, because the criteria applied are not uniform and fixed, but agency-
25 defined and inherently susceptible to unequal application.

26 117. No such limitation applies to candidates for other county offices, nor, for example, the state
27 legislature.

1 118. The Act therefore violates Article I, Section 12 of the Washington Constitution.

2 **F. Sixth Cause of Action: The Candidate Screening Provisions Violate the First and**
3 **Fourteenth Amendments to the United States Constitution.**

4 119. The First Amendment to the United States Constitution, applied to the states through the
5 Fourteenth Amendment, prohibits content-based restrictions on speech and protects the rights
6 of citizens to seek public office and to associate freely for political purposes.

7 120. Ballot access restrictions implicate not only the candidate's rights but the rights of voters
8 who might wish to vote for that candidate. The Supreme Court has recognized that restrictions
9 on candidacy must be evaluated for the burdens they impose on First and Fourteenth
10 Amendment rights. *Anderson v. Celebrezze*, 460 U.S. 780 (1983).

11 121. Section 13 of the Act requires review of a candidate's social media accounts and inquiry
12 into the candidate's "past or present affiliations with extremist organizations," as conditions
13 of ballot eligibility. These provisions are content-based and association-based speech
14 restrictions: they condition access to the ballot on the content of a candidate's speech and the
15 nature of a candidate's associations. Content-based speech restrictions are subject to strict
16 scrutiny, and viewpoint-based restrictions are virtually per se unconstitutional.

17 122. The delegation to the Criminal Justice Training Commission of the power to define
18 "extremist organizations," to establish standards for psychological and polygraph
19 examinations, and to impose "any other test or assessment required by commission rules"
20 vests unbridled discretion in an executive agency over who may seek a constitutionally
21 established elected office. This is the licensing-scheme problem condemned in *Lovell v. City of*
22 *Griffin*, 303 U.S. 444 (1938): the decision to grant or deny access to the ballot cannot be left to
23 the unfettered discretion of a government official.

24 123. Conditioning ballot access on the surrender of First Amendment rights is an
25 unconstitutional condition. A system that effectively provides "you may run for office only if
26 you have not exercised your speech rights in ways this agency disfavors" inverts the
27 relationship between the citizen and the state.

1 124. The candidate screening provisions of the Act therefore violate the First and Fourteenth
2 Amendments to the United States Constitution.

3 **G. Seventh Cause of Action: The Candidate Screening Provisions Violate Due Process and**
4 **the Separation of Powers.**

5 125. Under Washington’s candidacy-challenge framework, codified at RCW 29A.68.011, the
6 courts—and only the courts—have the power and authority to determine who may be a
7 candidate for public office. Candidate qualifications are adjudicated through judicial
8 proceedings with full procedural protections. *In re Contested Election of Schoessler*, 140 Wash.2d
9 368 (2000).

10 126. Even the ministerial filing officer—the county auditor—cannot make independent
11 eligibility determinations. The auditor “could not determine a complex question concerning
12 eligibility of a candidate” and “was required to rely upon official records.” *Dumas*, 137
13 Wash.2d at 292 (citing *State ex rel. McCaffrey v. Superior Court*, 20 Wash.2d 704 (1944), and
14 *State ex rel. McAulay v. Reeves*, 196 Wash. 1 (1938)).

15 127. The Act bypasses this judicial role entirely. It empowers executive branch agencies—the
16 Washington State Patrol and the Criminal Justice Training Commission—to make the
17 eligibility determination, based on subjective criteria the commission itself defines, with a pass-
18 or-fail result that determines ballot access. This transfers an inherently judicial function to the
19 executive branch, “with the added danger that, in times of stress, ... [the agency’s]
20 determination might be influenced by ... [the agency’s] prejudices or by partisan
21 considerations.” *Dumas*, 137 Wash.2d at 292 (quoting *State ex rel. McAulay v. Reeves*, 196 Wash.
22 at 7-8).

23 128. Because the commission establishes its own criteria for social media review, extremist-
24 organization inquiry, psychological examination, polygraph assessment, and “any other test or
25 assessment,” there are no legislatively defined standards to which the agency is bound, no
26 intelligible principle to constrain its discretion, and no basis for meaningful judicial review.
27

1 129. The candidate screening provisions of the Act therefore violate the separation of powers
2 and due process guarantees of the Washington Constitution and the Fourteenth Amendment
3 to the United States Constitution.

4 **H. Eighth Cause of Action: The Automatic Vacancy Provisions Unconstitutionally**
5 **Circumvent the Constitutional Mechanisms for Removal of Elected Officers.**

6 130. The Washington Constitution establishes specific mechanisms for the removal of elected
7 officers from office, including impeachment and recall. Wash. Const. art. V (impeachment);
8 Wash. Const. art. I, § 33 (recall). These constitutional provisions reflect a deliberate structural
9 choice: elected officers hold their offices by virtue of the people's vote, and may be removed
10 only through processes that are rooted in the constitution itself and that afford due process
11 protections.

12 131. Sections 11 and 12 of the Act create a mechanism by which an elected sheriff is
13 automatically removed from office—not by impeachment, recall, or judicial determination, but
14 by the administrative act of decertification by the Criminal Justice Training Commission.
15 Section 12 amends RCW 42.12.010 to add loss of certification or decertification as a cause of
16 vacancy for any elected law enforcement official. Section 11 provides that the vacancy “shall
17 be filled pursuant to RCW 36.16.110,” meaning by appointment—not by election.

18 132. This creates a pathway by which an executive branch agency may effectively remove an
19 elected constitutional officer from office through its own administrative proceedings,
20 bypassing the constitutional mechanisms for removal and replacing an officer chosen by the
21 people with one chosen by appointment. The people's choice is nullified not by the people, not
22 by the courts, and not through constitutional removal processes, but by an executive agency
23 acting under its own rules.

24 133. The automatic vacancy provisions of the Act therefore unconstitutionally circumvent the
25 constitutional mechanisms for removal of elected officers, violating the separation of powers
26 and the structural protections of the Washington Constitution, including Article XI, Section 5
27 and Article I, Section 19.

1 **VI. PRAYER FOR RELIEF.**

2 WHEREFORE, Plaintiffs pray for the following relief:

- 3 A. A declaration that the Act is unconstitutional under Article XI, Section 5 of the
4 Washington Constitution;
- 5 B. A declaration that the Act is unconstitutional under Article I, Section 19 of the Washington
6 Constitution;
- 7 C. A declaration that the Act is unconstitutional under Article I, Section 5 of the Washington
8 Constitution;
- 9 D. A declaration that the Act is unconstitutional under Article I, Section 7 of the Washington
10 Constitution;
- 11 E. A declaration that the Act is unconstitutional under Article I, Section 12 of the Washington
12 Constitution;
- 13 F. A declaration that the Act is unconstitutional under the First and Fourteenth Amendments
14 to the United States Constitution;
- 15 G. A declaration that the Act violates violate due process and the separation of powers;
- 16 H. A declaration that the Act's automatic vacancy provisions unconstitutionally circumvent
17 the Washington Constitution's mechanisms for removal of elected officers;
- 18 I. An injunction barring the state, including WSCJTC and WSP, from enforcing or acting in
19 accordance with the Act; and
- 20 J. Such other relief as this Court finds just and proper.

21 ///

22 ///

23 ///

24 ///

25 ///

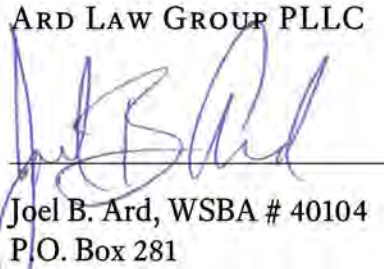
26 ///

27 ///

1 April 6, 2026.
2
3
4

ARD LAW GROUP PLLC

5
6 By:


Joel B. Ard, WSBA # 40104
P.O. Box 281
Kingston, WA 98346
206.701.9243
Joel@Ard.law
Attorneys for Plaintiffs