

1           **7-32-240. Certification of Montana peace officer who leaves full-time or**  
2 **part-time employment to active reserve status in Montana.** (1) ~~A peace~~ Except  
3 as provided in subsection (2), an officer who leaves full-time or part-time  
4 employment and enters an active reserve status within 36 to 60 months retains  
5 basic certification status after entering reserve status for as long as the peace officer  
6 remains an active reserve officer. has been issued a peace officer basic certification  
7 by the Montana public safety officer standards and training council or who is  
8 eligible for the certification and who becomes an active reserve officer in Montana  
9 may retain the officer's peace officer certification and return to full-time or part-time  
10 employment as a peace officer under the following circumstances:

11           (a) If 36 or more months have passed the reserve officer has not had a break  
12 in service of more than 3 years at any time since the peace officer's last date of  
13 employment as a full-time or part-time employment and the peace officer returns to  
14 full-time or part-time employment, the peace officer shall, upon return to retains the  
15 peace officer certification and may return to full-time or part-time employment as a  
16 peace officer from reserve status without attending an equivalency course or  
17 returning to the basic academy, comply with 7-32-303(5)(e).

18           (b) If the reserve officer has had a break in service of more than 3 years at  
19 any time since the officer's last date of employment as a full-time or part-time  
20 peace officer in Montana, the officer must successfully complete the peace officer  
21 basic equivalency course, as approved by the council, within 1 year of the officer's  
22 most recent appointment as a full-time or a part-time peace officer in Montana in  
23 order to maintain the officer's peace officer certification. If the officer fails the basic  
24 equivalency course, the officer must attend the peace officer basic course at the  
25 Montana law enforcement academy at the next available opportunity. The officer's  
26 agency may request an extension of time for the officer to meet the basic  
27 requirement pursuant to 7-32-303(9).

1           (c) If the reserve officer has had a break in service of more than 5 years at  
2 any time since the officer's last date of employment as a full-time or a part-time  
3 peace officer in Montana, the officer must successfully complete the peace officer  
4 basic course at the Montana law enforcement academy, as approved by the council,  
5 within 1 year of the officer's most recent appointment as a full-time or part-time  
6 peace officer in Montana in order to retain the officer's peace officer certification.  
7 The officer's agency may request an extension of time for the officer to meet the  
8 basic requirement pursuant to 7-32-303(9).

9           (2) (a) The provisions of subsection (1) do not apply to a peace officer who  
10 was last employed as a full-time or part-time peace officer outside of Montana, a  
11 peace officer who was last employed by a federal or United States military law  
12 enforcement agency, or to a reserve officer outside of Montana.

13           (b) Officers listed in subsection (2)(a) are subject to the provisions of 7-32-  
14 303(6) through (8).

15           (3) For the purposes of this chapter, "break in service" means a continuous  
16 period in which the officer is not performing the duties of a peace officer in Montana,  
17 either as a part-time or a full-time officer or as an active reserve officer.

18           **7-32-303. Peace officer employment, education, and certification**  
19 **standards -- suspension or revocation -- penalty.** (1) For purposes of this  
20 section, unless the context clearly indicates otherwise, "peace officer" means a  
21 deputy sheriff, undersheriff, police officer, highway patrol officer, fish and game  
22 warden, park ranger, campus security officer, or airport police officer.

23           (2) A sheriff of a county, the mayor of a city, a board, a commission, or any  
24 other person authorized by law to appoint peace officers in this state may not appoint  
25 any person as a peace officer who does not meet the ~~following~~ qualifications  
26 provided in this subsection plus any additional qualifying standards for  
27 employment promulgated by the Montana public safety officer standards and

1 training council established in 2-15-2029. A peace officer must:

2 (a) be a citizen of the United States;

3 (b) be at least 18 years of age;

4 (c) be fingerprinted and a search made of the local, state, and national  
5 fingerprint files to disclose any criminal record;

6 (d) not have been convicted of a crime for which the person could have been  
7 imprisoned in a federal or state penitentiary;

8 (e) be of good moral character, as determined by a thorough background  
9 investigation;

10 (f) be a high school graduate or have been issued a high school  
11 equivalency diploma by the superintendent of public instruction or by an  
12 appropriate issuing agency of another state or of the federal government;

13 (g) ~~(i)~~ be free from any mental condition that might adversely affect  
14 performance of the duties of a peace officer, as determined after:

15 (i) be examined by a licensed physician or, for the purposes of a mental health  
16 evaluation, performed by a ~~person~~ licensed physician or a mental health professional  
17 who is licensed by the state under Title 37 and acting within the scope of the person's  
18 licensure when performing a mental health evaluation, who is not the applicant's  
19 personal physician or licensed mental health professional, and who is appointed  
20 selected by the employing authority to determine if the applicant is free from any  
21 mental or physical condition that might adversely affect performance by the  
22 applicant of the duties of a peace officer; or

23 (ii) satisfactory completion of a standardized mental health evaluation  
24 instrument determined by the employing authority to be sufficient to examine for  
25 any mental conditions within the meaning of this subsection (2)(g), if the instrument  
26 is scored by a licensed physician or a mental health professional acting within the  
27 scope of the person's licensure by a state;

1           (h) be free from any physical condition that might adversely affect  
2 performance of the duties of a peace officer, as determined after a satisfactory  
3 completion of a physical examination performed by a health care provider who is  
4 licensed by the state under Title 37 and acting within the scope of the person's  
5 licensure when performing the physical examination, who is not the applicant's  
6 personal health care provider, and who is selected by the employing authority;

7           ~~(ii) (A) satisfactorily complete the physical examination required by~~  
8 ~~subsection (2)(g)(i); and~~

9           ~~(B) complete a standardized mental health evaluation instrument determined~~  
10 ~~by the employing authority to be sufficient to examine for any mental health~~  
11 ~~conditions that might adversely affect the performance by the applicant of the duties~~  
12 ~~of a peace officer if the instrument is scored by a mental health professional acting~~  
13 ~~within the scope of licensure by any state and the mental health professional finds that~~  
14 ~~the applicant is free of any such mental health condition;~~

15           ~~(h)(i)~~ successfully complete an oral examination conducted by the appointing  
16 authority or its designated representative to demonstrate the possession of  
17 communication skills, temperament, motivation, and other characteristics  
18 necessary to the accomplishment of the duties and functions of a peace officer; ~~and~~

19           ~~(i)(j)~~ possess or be eligible for a valid Montana driver's license;

20           (k) be certified, be eligible for certification as a peace officer by the council,  
21 or become eligible for certification upon completion of the requirements contained  
22 in (6)-(10).

23           (3) At the time of appointment, a peace officer shall take a formal oath of  
24 office ~~and an ethics oath, as promulgated by the council,~~ and no other oath may be  
25 required.

26           (4) Within 10 days of the appointment, termination, resignation, or death of  
27 any peace officer, written notice of the event must be given to the Montana public

1 safety officer standards and training council by the employing authority.

2 (5) ~~(a) Except as provided in subsections (5)(b) and (5)(c), it~~ It is the duty of  
3 an appointing authority in Montana to cause ensure that each peace officer  
4 appointed under its authority to attend and successfully complete, within 1 year of  
5 the initial appointment, an appropriate peace officer basic course certified by has the  
6 appropriate basic training, including any training required in subsections (6) through  
7 (8), in addition to meeting all other requirements of peace officer certification  
8 promulgated by the Montana public safety officer standards and training council.

9 Any peace officer appointed after September 30, 1983, who fails to meet the  
10 minimum requirements as set forth in subsection (2) or who fails to complete the  
11 ~~basic course as required by this subsection (5)(a)~~ training required by subsections  
12 (6) through (8) forfeits the position, authority, and arrest powers accorded a peace  
13 officer in this state.

14 (6) Except as provided in subsections (7) and (8), a peace officer shall  
15 successfully complete the peace officer basic course at the Montana law  
16 enforcement academy, as approved by the council, within 1 year of:

17 (a) the peace officer's initial appointment as a peace officer; or

18 (b) the peace officer's most recent appointment as a peace officer if a peace  
19 officer has had a break in service as a peace officer of more than 5 years.

20 (7) (a) If a peace officer previously satisfied the requirement in subsection  
21 (6), is certified, eligible for certification as a peace officer in Montana or may become  
22 eligible for certification upon completion of the probationary period in (10), and has  
23 had a break in service as a peace officer of less than 3 years, the peace officer is not  
24 required to satisfy the requirement in subsection (6) or to attend an equivalency  
25 course prior to returning to work in Montana as a peace officer;

26 (b) If a peace officer previously satisfied the requirement in subsection (6),  
27 is certified, eligible for certification as a peace officer in Montana or may become

1 eligible for certification upon completion of the probationary period in (10), and has  
2 been continually employed as a peace officer outside of Montana for no more than  
3 3 years, the peace officer is not required to satisfy the requirement in subsection (6)  
4 or to attend an equivalency course prior to returning to work in Montana as a peace  
5 officer.

6 (c) If a peace officer previously completed the peace officer basic course  
7 successfully, is certified, eligible for certification as a peace officer in Montana or  
8 may become eligible for certification upon completion of the probationary period in  
9 (10), and has been continually employed as a peace officer outside of Montana for  
10 more than 3 years or who has had a break in service as a peace officer for more than  
11 3 years but less than 5 years, the peace officer shall successfully complete the peace  
12 officer basic equivalency course, as approved by the council, within 1 year of the  
13 peace officer's most recent appointment as a peace officer in Montana. If the peace  
14 officer fails the basic equivalency course, the officer shall satisfy the requirement in  
15 subsection (6) at the next available opportunity.

16 (d) If a person satisfied the requirement in subsection (6) prior to the  
17 person's appointment or employment and is hired or appointed as a peace officer  
18 more than 3 years but less than 5 years after the date that the person satisfied the  
19 requirement in subsection (6), the person shall successfully complete the peace  
20 officer basic equivalency course, as approved by the council, within 1 year of  
21 the person's most recent appointment or employment as a peace officer. If the  
22 person is not appointed or employed as a peace officer within 5 years after the date  
23 of the person's successful completion of the requirement in subsection (6), the  
24 person shall satisfy the requirement in subsection (6) within 1 year of the person's  
25 most recent appointment as a peace officer in Montana.

26 (8) (a) Except as provided in subsection (8)(b), if a peace officer has  
27 successfully completed a peace officer basic course that is taught or approved by a

1 federal, state, local, or United States military law enforcement agency, that satisfies  
2 the peace officer basic training requirement for that agency, and that the council  
3 has reviewed and approved as commensurate with the current peace officer basic  
4 course offered at the Montana law enforcement academy, the peace officer shall  
5 successfully complete the peace officer basic equivalency course, as approved by the  
6 council, within 1 year of the officer's initial appointment in Montana. If the officer  
7 fails the basic equivalency course, the officer must satisfy the requirement in  
8 subsection (6) at the next available opportunity.

9 (b) The peace officer shall complete the requirement of subsection (6) within  
10 1 year of the officer's initial appointment as a peace officer in Montana if the officer  
11 has had a break in service as a peace officer for more than 5 years.

12 ~~(b) A peace officer who has been issued a basic certificate by the~~  
13 ~~Montana public safety officer standards and training council and whose last date of~~  
14 ~~employment as a peace officer was less than 36 months prior to the date of the~~  
15 ~~person's present appointment as a peace officer is not required to fulfill the basic~~  
16 ~~educational requirements of subsection (5)(a). If the peace officer's last date of~~  
17 ~~employment as a peace officer was 36 or more but less than 60 months prior to the~~  
18 ~~date of present employment as a peace officer, the peace officer may satisfy the~~  
19 ~~basic educational requirements as set forth in subsection (5)(c).~~

20 ~~(c) A peace officer referred to in subsection (5)(b) or a peace officer who has~~  
21 ~~completed a basic peace officer's course that is taught by a federal, state, or United~~  
22 ~~States military law enforcement agency and that is reviewed and approved by the~~  
23 ~~Montana public safety officer standards and training council as equivalent with~~  
24 ~~current training in Montana and whose last date of employment as a peace officer or~~  
25 ~~member of the military law enforcement was less than 60 months prior to the date of~~  
26 ~~present appointment as a peace officer may, within 1 year of the peace officer's~~  
27 ~~present employment or initial appointment as a peace officer within this state, satisfy~~

1 ~~the basic educational requirements by successfully completing a basic equivalency~~  
2 ~~course administered by the Montana law enforcement academy. The prior~~  
3 ~~employment of a member of the military law enforcement must be reviewed and~~  
4 ~~approved by the Montana public safety officer standards and training council. If the~~  
5 ~~peace officer fails the basic equivalency course, the peace officer shall complete the~~  
6 ~~next available appropriate basic course.~~

7 ~~(6)(9)~~ The Montana public safety officer standards and training council may  
8 extend the 1-year time requirements of subsections ~~(5)(a) and (5)(e)~~ (6) through (8)  
9 upon the written application of ~~the peace officer and~~ the appointing authority of the  
10 officer. The application must explain the circumstances that make the extension  
11 necessary. Factors that the council may consider in granting or denying the extension  
12 include but are not limited to illness of the peace officer or a member of the peace  
13 officer's immediate family, absence of reasonable access to the basic equivalency  
14 course, and an unreasonable shortage of personnel within the department. The  
15 council may not grant an extension to exceed 180 days.

16 ~~(7)(10)~~ A peace officer who has successfully met the training, employment,  
17 and educational standards and qualifications and the educational requirements of this  
18 section, successfully met the training and employment standards set by the council,  
19 and who has completed a 1-year probationary term of employment must be issued a  
20 peace officer basic certificate by the council certifying that the peace officer has met  
21 all the basic qualifying peace officer standards of this state.

22 ~~(8)(11)~~ It is unlawful for a person whose basic certification as a peace  
23 officer, ~~detention officer, or detention center administrator~~ has been revoked or  
24 ~~suspended~~ denied by the Montana public safety officer standards and training  
25 council for misconduct to act as a peace officer, detention officer, or detention  
26 center administrator. It is unlawful for a person whose peace officer basic  
27 certification has been suspended by the council to act or be appointed or



1 employed as a peace officer in Montana during the period in which the  
2 certification is suspended. A person convicted of violating this subsection is guilty of  
3 a misdemeanor, punishable by a term of imprisonment not to exceed 6 months in the  
4 county jail or by a fine not to exceed \$500, or both.

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