

**CHAPTER 132****(HB 157)**

AN ACT relating to peace officer certification.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
  - (a) State Police officers, but for the commissioner of the State Police;
  - (b) City, county, and urban-county police officers;
  - (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
  - (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
  - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
  - (f) Airport safety and security officers appointed under KRS 183.880;
  - (g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and
  - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040.
- (2) The requirements of KRS 15.380 to ~~15.404~~~~[15.402]~~ for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to ~~15.404~~~~[15.402]~~ for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
  - (a) Deputy coroners;
  - (b) Deputy constables;
  - (c) Deputy jailers;
  - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
  - (e) Officers appointed under KRS 61.360;
  - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
  - (g) Private security officers;
  - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and

- (i) Investigators employed by the Division of Charitable Gaming in accordance with KRS 238.510.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
  - (a) Sheriffs;
  - (b) Coroners;
  - (c) Constables;
  - (d) Jailers;
  - (e) Racing Commission security officers employed under KRS 230.240; and
  - (f) Commissioner of the State Police; and
- (6) Federal peace officers cannot be certified under KRS 15.380 to ~~15.404~~~~[15.402]~~.

Section 2. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to ~~15.404~~~~[15.402]~~ shall, at the time of becoming certified, meet the following minimum qualifications:

- (1) Be a citizen of the United States;
- (2) Be at least twenty-one (21) years of age;
- (3) Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination;
- (4) Possess a valid license to operate a motor vehicle;
- (5) Be fingerprinted for a criminal background check;
- (6) Not have been convicted of any felony;
- (7) Not be prohibited by federal or state law from possessing a firearm;
- (8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
- (9) Have not received a dishonorable discharge, or general discharge under other than honorable conditions if having served in any branch of the armed forces of the United States;
- (10) Have passed a medical examination as defined by the council by administrative regulation to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

- (12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (13) Have been interviewed by the employing agency;
- (14) Not have had certification as a peace officer permanently revoked in another state;
- (15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;
- (16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.315 to 15.510; and
- (17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.315 to 15.510.

Section 3. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

- (1) "Precertification status" *means that*~~[-]~~ the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his *or her* enforcement powers shall automatically terminate~~[-, and he shall not exercise peace officer powers in the Commonwealth until he has successfully completed a basic training course].~~
- (2) "Certification status" *means that*~~[-]~~ unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed.
- (3) (a) "Inactive status" *means that unless the certification is in revoked status:*~~[-]~~

- 1.~~{(a)}~~ The person has been separated on or after December 1, 1998, from the agency by which he was employed or appointed and has no peace officer powers; or
- 2.~~{(b)}~~ The person is on military active duty for a period exceeding three hundred sixty-five (365) days.
- (b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he *or she has successfully completed a basic training course approved and recognized by the council*, has not committed an act for which his *or her* certified status may be revoked pursuant to KRS 15.380 to 15.404~~{15.402}~~ and~~—by~~ successfully ~~completes~~~~{completing forty (40) hours of}~~ in-service training as prescribed by the council, *as follows:*
1. *No more than forty (40) hours if the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation; or*
  2. *No more than eighty (80) hours if the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation.*
- (4) *"Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.*
- (5)~~{(4)}~~ *"Revoked~~—or denied~~ status" means that~~—~~ the officer has no enforcement powers and has been separated from an enforcement agency for any one (1) of the following reasons:*
- (a) Failure to meet or maintain training requirements;
  - (b) Willful falsification of information to obtain or maintain certified status;
  - (c) Certification was the result of an administrative error;
  - (d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;
  - (e) Prohibition by federal or state law from possessing a firearm.
- (6) *"Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.*
- (7)~~{(5)}~~ The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.
- Section 4. KRS 15.388 is amended to read as follows:
- (1) Within five (5) working days of employment or appointment, the chief executive officer of the employing agency, or his designee, shall file a report with the council certifying that the newly employed officer is certified or meets or exceeds the precertification qualifications of KRS 15.382.
  - (2) If the person is certified, the council shall continue certified status.

- (3) If the person is on inactive status, the council shall upgrade to certified status unless the certification is revoked *or denied* as provided by KRS 15.380 to ~~15.404~~~~[15.402]~~.
- (4) *If the person is not certified and not on inactive status, but has successfully completed a basic training course approved and recognized by the council, the council shall designate the person as being in certified status unless the certification is revoked or denied as provided by KRS 15.380 to 15.404.*
- (5) If the person is not certified and not on inactive status, *and has not successfully completed a basic training course approved and recognized by the council*, the council shall designate the person as being in precertification status.
- ~~(6)~~~~(5)~~ A person who is in precertification status shall, upon successful completion of the required basic training, be certified unless he has committed an act that would result in revocation of his certificate in which case he shall be denied certification.
- ~~(7)~~~~(6)~~ A person who is denied certified status under this section shall have the same right of appeal as a person who has been revoked under KRS 15.380 to ~~15.404~~~~[15.402]~~.
- ~~(8)~~~~(7)~~ If the certified officer has successfully completed the basic training required by KRS 15.404 and transfers from a peace officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

Section 5. KRS 15.392 is amended to read as follows:

- (1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency or his designee shall file with the council a summary report that provides the relevant information about the person's separation from service.
- (2) If the person has been separated for *any reason justifying revoked or denied status pursuant to KRS 15.386*~~[having pled guilty to, been convicted of, or entered an Alford plea to a felony]~~, the council shall revoke the person's certification.
- (3) If the person has been separated for any other reason other than death, *or one justifying revoked or denied status pursuant to KRS 15.386; and*
  - (a) *The person has successfully completed basic training at a school certified or recognized by the council*, the council shall place the certification on inactive status;  
*or*
  - (b) *The person has not successfully completed basic training at a school certified or recognized by the council, the certification shall lapse.*
- (4) If the person has been separated due to death, the certification shall be retired.
- ~~(5)~~~~(4)~~ The employing agency's findings of fact and evidentiary conclusions shall be deemed final. The council shall be limited only to revoking the certification.
- ~~(6)~~~~(5)~~ The council shall not accept or hear complaints.

Section 6. KRS 15.396 is amended to read as follows:

- (1) An agency may be required to pay for all training received by a person from the Department of Criminal Justice Training or any other facility approved by the Kentucky Law Enforcement Council if the agency knowingly employs or appoints a person to be an officer

of any type as enumerated in KRS 15.380 and if that person fails to achieve certified status as required by KRS 15.380 to ~~15.404~~~~[15.402]~~.

- (2) The agency shall be denied participation in the Kentucky Law Enforcement Foundation Program Fund if the agency knowingly employs or appoints a person to be an officer of any type as enumerated in KRS 15.380 and if that person:
  - (a) Fails to meet those minimum qualifications set forth in KRS 15.402;
  - (b) Fails to achieve certified status as required by KRS 15.380 to ~~15.404~~~~[15.402]~~; or
  - (c) Fails to maintain the minimum training requirements set forth in KRS 15.404.
- (3) An agency that is in violation of subsection (1) or (2) of this section may be relieved of the associated penalty upon:
  - (a) Termination of the officer who is the source of the violation; or
  - (b) Correction of the officer's deficiency.

Section 7. KRS 15.398 is amended to read as follows:

- (1) The following Kentucky Revised Statutes and any administrative regulations promulgated thereunder affecting those peace officers required to be certified pursuant to KRS 15.380 to ~~15.404~~~~[15.402]~~ shall not be superseded by the provisions of KRS 15.380 to ~~15.404~~~~[15.402]~~, and in all instances the provisions of all statutes specified below shall prevail:
  - (a) KRS Chapter 16, relating to Kentucky State Police Officers;
  - (b) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
  - (c) KRS Chapter 78, relating to county police;
  - (d) KRS Chapters 15 and 95, *except for KRS 95.955*, relating to city and urban-county police;
  - (e) KRS Chapter 183, relating to airport safety and security officers;
  - (f) KRS Chapter 164, relating to State Universities and Colleges; Regional Education and Archaeology officers;
  - (g) KRS Chapter 18A, relating to all state peace officers;
  - (h) KRS 241.090, relating to Department of Alcoholic Beverage Control field representatives and investigators;
  - (i) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
  - (j) Any other statutes affecting peace officers not specifically cited herein.

Section 8. KRS 15.400 is amended to read as follows:

- (1) The effective date of KRS 15.380 to ~~15.404~~~~[15.402]~~ shall be December 1, 1998. All peace officers employed as of December 1, 1998, shall be deemed to have met all the requirements of KRS 15.380 to ~~15.404~~~~[15.402]~~ and shall be granted certified status as long as they remain in continuous employment of the agency by which they were employed as of December 1, 1998, or shall have successfully completed an approved basic training course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440(4) when seeking employment with another law enforcement agency.

- (2) Any peace officers employed after December 1, 1998, shall comply with all minimum standards specified in KRS 15.380 to ~~15.404~~~~[15.402]~~. Persons newly employed or appointed after December 1, 1998, shall have one (1) year within which to gain certified status or they shall lose their law enforcement powers.
- (3) The Open Records Act notwithstanding, the person's home address, telephone number, date of birth, Social Security number, background investigation, medical examination, psychological examination, and polygraph examination conducted *for any person seeking certification* pursuant to *KRS 15.380 to 15.404*~~[this statute]~~ shall not be subject to disclosure.

Section 9. KRS 15.402 is amended to read as follows:

No provisions of KRS 15.380 to ~~15.404~~~~[15.402]~~ shall preclude an appointing or employing agency from having requirements that are in excess of or in addition to any requirements specified by *KRS 15.380 to 15.404*~~[1998 Ky. Acts Ch. 606]~~ or an administrative regulation promulgated under KRS 15.380 to ~~15.404~~~~[15.402]~~.

Section 10. KRS 15.404 is amended to read as follows:

- (1) Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete at least six hundred forty (640) hours of basic training at a school certified or recognized by the Kentucky Law Enforcement Council.
- (2) All peace officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, that is appropriate to the officer's rank and responsibility and the size and location of his department.
- (3) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the *commissioner of the department*~~[secretary of the Justice Cabinet]~~ or his *or her* designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training.
- (4) Any peace officer who fails to successfully complete~~[the]~~ basic~~[or in-service]~~ training within the specified time *periods, including extensions*,~~[period]~~ shall lose his *or her* law enforcement powers and *his or her precertification*~~[certification]~~ status *shall lapse. Any peace officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her certification status shall be changed to training deficiency status. When a peace officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the peace officer and his or her agency.*
- (5)~~(4)~~ An officer who has lost his *or her* law enforcement powers due solely to his *or her* failure to meet the *in-service* training requirements of this section~~[or any other applicable provision of Kentucky law mandating law enforcement training]~~ may regain his *or her* certification status and law enforcement powers upon successful completion of the training deficiency.

Approved April 2, 2002