

**CHAPTER 139****(HB 358)**

AN ACT relating to criminal justice.

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

SECTION 1. A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

*The certification of a peace officer may, after a hearing held in conformity with KRS Chapter 13B, be revoked by the council for one (1) or more of the following:*

- (1) *Failure to meet or maintain training requirements;*
- (2) *Willful falsification of information to obtain or maintain certified status;*
- (3) *Certification that was the result of an administrative error;*
- (4) *Plea of guilty to, conviction of, or entering of an Alford plea to any felony;*
- (5) *Prohibition by federal or state law from possessing a firearm; or*
- (6) *Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.*

Section 2. KRS 15.330 is amended to read as follows:

- (1) The council is vested with the following functions and powers:
  - (a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement and telecommunications training courses required under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;
  - (b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;
  - (c) To prescribe qualifications for attendance and conditions for expulsion from such schools;
  - (d) To prescribe minimum standards and qualifications for voluntary career development programs for certified peace officers and telecommunicators, including minimum standards for experience, education, and training, and to issue certificates to those meeting the minimum standards;
  - (e) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to ~~15.404~~~~[15.510, 15.530 to 15.590, and 15.990 to 15.992]~~;
  - (f) To approve law enforcement officers, telecommunicators, and other persons as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;
  - (g) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992, any information or documents;
  - (h) To promulgate reasonable rules and administrative regulations in accordance with KRS Chapter 13A to accomplish the purposes of KRS 15.310 to ~~15.404~~~~[15.510, 15.530 to 15.590, and 15.990 to 15.992]~~;
  - (i) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;
  - (j) To adopt bylaws for the conduct of its business not otherwise provided for; and
  - (k) The council shall have the authority to certify police officers as set out in this chapter.
- (2) The provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 do not apply to the Department of State Police except for the certification requirement established by this chapter.

Section 3. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 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, *bad conduct 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 4. 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 *peace* 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 *or she* 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.

- (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 *or she* was appointed or employed.
- (3) (a) "Inactive status" means that unless the certification is in revoked status:
1. The person has been separated on or after December 1, 1998, from the agency by which he *or she* was employed or appointed and has no peace officer powers; or
  2. 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 *Section 1 of this Act* ~~[KRS 15.380 to 15.404]~~ and successfully completes 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, *he or she shall complete:*
    - a. *The twenty-four (24) hour legal update Penal Code course;*
    - b. *The sixteen (16) hour legal update constitutional procedure course; and*
    - c. *The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status;*  
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, *he or she shall complete:*
    - a. *The twenty-four (24) hour legal update Penal Code course;*
    - b. *The sixteen (16) hour legal update constitutional procedure course;*
    - c. *The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; and*
    - d. *One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:*
      - i. *Basic officer skills;*
      - ii. *Orientation for new police chiefs; or*
      - iii. *Mandatory duties of the sheriff.*
- (c) *A person returning from inactive to active certification after the effective date of this Act, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:*
1. *Be a citizen of the United States;*
  2. *Possess a valid license to operate a motor vehicle;*
  3. *Be fingerprinted for a criminal background check;*
  4. *Not have been convicted of any felony;*
  5. *Not be prohibited by federal or state law from possessing a firearm;*
  6. *Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;*

7. *Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions if having served in any branch of the Armed Forces of the United States;*
  8. *Have been interviewed by the employing agency; and*
  9. *Not have had certification as a peace officer permanently revoked in another state.*
- (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) "Revoked status" means that the officer has no enforcement powers and *his or her certification has been revoked by the Kentucky Law Enforcement Council*~~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; *or*
  - (f) *Receipt of a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.*
- (6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.
- (7) 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 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 *from service has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status. Placement of certification on inactive status shall not prevent the council from subsequently instituting an action to revoke an officer's certification in appropriate cases in accordance with Section 1 of this Act* for any reason justifying revoked or denied status pursuant to KRS 15.386, the council shall revoke the person's certification.
- (3) If the person has been separated *from service or*~~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) 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) The council shall not accept or hear complaints.~~

Section 6. KRS 15.404 is amended to read as follows:

- (1) (a) 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.

- (b) *In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing basic training within one (1) year, the commissioner of the department 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.*
  - (c) *Any peace officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification status shall lapse. Further, the peace officer shall be prohibited from serving as a peace officer for a period of one (1) year from the date that his or her precertification lapses.*
- (2) (a) 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.
  - (b) *In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the in-service training within one (1) year, the commissioner of the department 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. If the officer is unable to complete the in-service training due to injury or illness that prevents him or her from working as a peace officer, the one hundred eighty (180) day extension shall begin on the date that the officer returns to work.*
  - (c) *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.*
  - (d) *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.*
  - (e) *The requirements of this subsection shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces.*
  - (f) *This waiver shall be retroactive for peace officers from the date of September 11, 2001.*
- (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 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 basic training within the specified time periods, including extensions, shall lose his or her law enforcement powers and his or her precertification 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) ~~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 may regain his or her certification status and law enforcement powers upon successful completion of the training deficiency.~~

Section 7. KRS 18A.202 is amended to read as follows:

- (1) The secretary is authorized to install and implement by administrative regulation work-related incentive programs for state employees. Such programs may include, but need not be limited to, an employee suggestion system whereby employees in the classified service *and employees falling under KRS Chapter 16* may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state. Such programs may provide that when an employee suggestion has been adopted and resulted in a financial savings to the state, the employee who submitted the suggestion may be compensated for his service through a cash bonus in an amount to the lesser of ten percent (10%) of the amount saved or two thousand five hundred dollars (\$2,500).

- (2) *Nothing in this section shall be construed to allow KRS Chapter 16 employees to collect any fees or rewards for performance of acts in the line of duty as prohibited in KRS 16.110.*

Section 8. KRS 197.025 is amended to read as follows:

- (1) KRS ~~61.870 to 61.884~~ ~~and 61.878~~ to the contrary notwithstanding, no person shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.
- (2) KRS ~~61.870 to 61.884~~~~61.872~~ to the contrary notwithstanding, the department shall not be required to comply with a request for any record from any inmate confined in a jail or any facility or any individual on active supervision under the jurisdiction of the department, unless the request is for a record which contains a specific reference to that individual.
- (3) KRS ~~61.870 to 61.884~~~~61.880~~ to the contrary notwithstanding, all persons confined in a penal facility shall challenge any denial of an open record with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial pursuant to the procedures set out in KRS 61.880(2) before an appeal can be filed in a Circuit Court.
- (4) KRS ~~61.870 to 61.884~~~~61.872~~ to the contrary notwithstanding, the Department of Corrections shall refuse to accept the hand delivery of an open records request from a confined inmate.
- (5) KRS 61.870 to 61.884 to the contrary notwithstanding, all records containing information expunged pursuant to law shall not be open to the public.
- (6) The policies and procedures or administrative regulations of the department which address the security and control of inmates and penitentiaries shall not be accessible to the public or inmates. The Administrative Regulations Review Subcommittee's review process for *any of* these policies and procedures or administrative regulations, *which may be filed with the regulations compiler*, shall be conducted in closed sessions *and held confidential*.
- (7) KRS ~~61.870 to 61.884~~~~61.880(1)~~ to the contrary notwithstanding, upon receipt of a request for any record, the department shall *respond to the request*~~(determine)~~ within five (5) days after receipt of the request, excepting Saturdays, Sundays, and legal holidays, *and state whether the record may be inspected or may not be inspected, or that the record is unavailable and when the record is expected to be available*~~(shall be released)~~.

SECTION 9. A NEW SECTION OF KRS CHAPTER 197\ IS CREATED TO READ AS FOLLOWS:

- (1) *Whenever a court finds the personal attendance of a state prisoner is necessary in a civil action and orders the Justice Cabinet or its agent or any law enforcement officer to transport a prisoner in connection with the civil action, the party requesting that the state prisoner be transported to the hearing shall pay the transportation cost, which shall include the estimated round trip cost, including the state mileage rate and the estimated associated salary cost of correctional staff.*
- (2) *The court shall cause all transportation orders to be delivered to the warden or jailer of the detention facility where the prisoner resides. As soon as practicable after the receipt of the order, the warden or jailer shall notify the prisoner and the court of the total transportation cost. If the payment is not received twenty-four (24) hours in advance of the scheduled hearing, no transportation shall be provided, irrespective of the order of the court commanding the Justice Cabinet or its agent or other law enforcement officer to transport a prisoner.*
- (3) *To the extent practicable, any action concerning a prisoner in which the court has determined that the prisoner's participation is required or permitted may be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.*
- (4) *The provisions of this section pertaining to payment of transportation costs shall not apply to parties who have been determined by the court to be indigent within the meaning of KRS Chapter 31 or other applicable law.*
- (5) *The Justice Cabinet shall promulgate an administrative regulation or regulations governing this process.*

Approved April 5, 2007.