

CHAPTER 95

(HB 191)

AN ACT relating to the revocation of peace officer certification.

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

➔Section 1. KRS 15.391 is amended to read as follows:

(1) *As used in this section:*

- (a) *"Agency" means any law enforcement agency, or other unit of government listed in KRS 15.380, that employs a certified peace officer;*
- (b) *"Final order" has the same meaning as in KRS 13B.010;*
- (c) *"General employment policy" means a rule, regulation, policy, or procedure commonly applicable to the general workforce or civilian employees that is not unique to law enforcement activities or the exercise of peace officer authority, regardless of whether the rule, regulation, policy, or procedure exists or appears in a manual or handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer;*
- (d) *"Professional malfeasance" means engaging in an act in one's professional capacity as a peace officer that violates a federal, state, or local law or regulation;*
- (e) *"Professional nonfeasance" means a failure to perform one's professional duty as a peace officer through omission or inaction that violates a federal, state, or local law or regulation; and*
- (f) *"Regulation" means:*
 - 1. *A federal or state administrative regulation adopted by a federal or state executive branch; and*
 - 2. *A local rule, regulation, policy, or procedure adopted by ordinance, order, or resolution, or other official action by an agency. However, "regulation" does not mean a general employment policy.*

(2) (a) The certification of a peace officer ~~shall~~~~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. (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;~~
- 2. ~~(4) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;~~
- 3. ~~(5) Prohibition by federal or state law from possessing a firearm; or~~
- 4. ~~(6) Receipt of a dishonorable discharge or bad conduct discharge, or general discharge under other than honorable conditions, from any branch of the Armed Forces of the United States.~~

(b) *A peace officer whose certification is revoked pursuant to paragraph (a) of this subsection may file an appeal with the council. If an appeal is filed, the council shall conduct an administrative hearing pursuant to KRS Chapter 13B to consider the reinstatement of the peace officer's certification if the revocation was made in error or the condition requiring revocation was removed or remedied.*

(3) (a) *The certification of a peace officer may be revoked by the council for one (1) or more of the following:*

- 1. *Termination of the peace officer for willful falsification of information to obtain or maintain certified status;*
- 2. *Termination of the peace officer for failure to meet or maintain training requirements, unless the certification is in inactive status. As used in this subparagraph, "inactive status" has the same meaning as in Section 2 of this Act;*

3. *Termination of the peace officer for professional malfeasance or professional nonfeasance by his or her agency;*
 4. *Resignation or retirement of the peace officer while he or she is under criminal investigation or administrative investigation for professional malfeasance or professional nonfeasance that, in the judgement of the agency that employed the peace officer, would have likely resulted in the termination of that peace officer had it been substantiated prior to his or her resignation or retirement; or*
 5. *Receipt of general discharge under other than honorable conditions from any branch of the Armed Forces of the United States that results in the termination of the peace officer from his or her agency.*
- (b) *The council shall review any allegations or reports of subparagraphs 1. to 5. of paragraph (a) of this subsection to determine whether the allegation or report warrants the initiation of proceedings to revoke a peace officer's certification. If the council determines to initiate proceedings to revoke a peace officer's certification based on the allegation or report, the administrative hearing shall be conducted pursuant to KRS Chapter 13B.*
- (4) *A peace officer may appeal a final order issued by the council denying reinstatement of his or her certification pursuant to subsection (2) of this section or revoking his or her certification pursuant to subsection (3) of this section as provided in KRS 13B.140.*
- (5) (a) *An agency:*
1. *That has knowledge of a peace officer in its employment who meets any of the revocation conditions outlined in subsection (2) of this section shall report that condition to the council within fifteen (15) days of gaining knowledge;*
 2. *Who terminated a peace officer for any of the revocation conditions outlined in subsection (3)(a)1., 2., 3., or 5. of this section shall report that condition to the council within fifteen (15) days of the termination; and*
 3. *That would have likely terminated a peace officer for the revocation condition outlined in subsection (3)(a)4. of this section shall report that condition to the council within fifteen (15) days of the peace officer's resignation or retirement. If an agency reports pursuant to this subparagraph, the agency shall notify the peace officer that a report has been made.*
- (b) *If an agency fails to make a report required by this subsection, the council may suspend the agency from participation in the Kentucky Law Enforcement Foundation Program fund. However, the time that an agency may be suspended by the council under this paragraph shall not exceed five (5) years.*
- (6) *The council may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.*

➔Section 2. 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 meets the requirements of KRS 15.400(1) or 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 15.391 and successfully completes in-service training as prescribed by the council, as follows:
1. 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. 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 June 26, 2007, 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 *under Section 1 of this Act* ~~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 3. KRS 15.440 is amended to read as follows:

- (1) Each unit of government that meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
 - (a) Employs one (1) or more police officers;
 - (b) Pays every police officer at least the minimum federal wage;
 - (c) Requires all police officers to have, at a minimum, a high school degree, or its equivalent as determined by the council, except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510 shall be deemed to have met the requirements of this subsection;
 - (d)
 1. Requires all police officers to successfully complete a basic training course of nine hundred twenty-eight (928) hours' duration within one (1) year of the date of employment at a school certified or recognized by the council, which may provide a different number of hours of instruction as established in this paragraph, except that each police officer employed prior to the date on which the officer's police department was included as a participant under KRS 15.410 to 15.510 shall be deemed to have met the requirements of this subsection.
 2. As the exclusive method by which the number of hours required for basic training courses shall be modified from that which is specifically established by this paragraph, the council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, explicitly set the exact number of hours for basic training at a number different from nine hundred twenty-eight (928) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis.
 3. If the council sets an exact number of hours different from nine hundred twenty-eight (928) in an administrative regulation as provided by this paragraph, it shall not further change the number of hours required for basic training without promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.
 4. Nothing in this paragraph shall be interpreted to prevent the council, pursuant to its authority under KRS 15.330, from approving training schools with a curriculum requiring attendance of a number of hours that exceeds nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation as provided by subparagraphs 2. and 3. of this paragraph. However, the training programs and schools for the basic training of law enforcement personnel conducted by the department pursuant to KRS 15A.070 shall not contain a curriculum that requires attendance of a number of hours for basic training that is different from nine hundred twenty-eight (928) hours or the number of hours established in an administrative regulation promulgated by the council pursuant to the provisions of KRS Chapter 13A as provided by subparagraphs 2. and 3. of this paragraph.
 5. KRS 15.400 and 15.404(1), and subparagraphs 1. to 4. of this paragraph to the contrary notwithstanding, the council may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, approve basic training credit for:
 - a. Years of service credit as a law enforcement officer with previous service in another state; and

- b. Basic training completed in another state;
- (e) Requires all police officers to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of the officer's police department, of forty (40) hours' duration, of which the number of hours shall not be changed by the council, at a school certified or recognized by the council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;
- (f) Complies with all provisions of law applicable to police officers or police departments, including transmission of data to the centralized criminal history record information system as required by KRS 17.150 *and transmission of reports as required by Section 1 of this Act*;
- (g) Complies with all rules and regulations, appropriate to the size and location of the police department issued by the cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;
- (h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that has been approved by the cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include a purpose statement; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Health and Family Services, Department for Community Based Services; victim rights, assistance, and service responsibilities; and duties related to timely completion of records; and
- (i) Possesses by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets the standards provided by, and has been approved by, the cabinet, and which includes:
 - 1. A requirement that evidence collected as a result of an examination performed under KRS 216B.400 be taken into custody within five (5) days of notice from the collecting facility that the evidence is available for retrieval;
 - 2. A requirement that evidence received from a collecting facility relating to an incident which occurred outside the jurisdiction of the police department be transmitted to a police department with jurisdiction within ten (10) days of its receipt by the police department;
 - 3. A requirement that all evidence retrieved from a collecting facility under this paragraph be transmitted to the Department of Kentucky State Police forensic laboratory within thirty (30) days of its receipt by the police department;
 - 4. A requirement that a suspect standard, if available, be transmitted to the Department of Kentucky State Police forensic laboratory with the evidence received from a collecting facility; and
 - 5. A process for notifying the victim from whom the evidence was collected of the progress of the testing, whether the testing resulted in a match to other DNA samples, and if the evidence is to be destroyed. The policy may include provisions for delaying notice until a suspect is apprehended or the office of the Commonwealth's attorney consents to the notification, but shall not automatically require the disclosure of the identity of any person to whom the evidence matched.
- (2) A unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund only if the police department of the unit of government remains in compliance with the requirements of this section.
- (3) Deputies employed by a sheriff's office shall be eligible to participate in the distribution of funds from the Law Enforcement Foundation Program fund regardless of participation by the sheriff.
- (4) Failure to meet a deadline established in a policy adopted pursuant to subsection (1)(i) of this section for the retrieval or submission of evidence shall not be a basis for a dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

Signed by Governor March 26, 2019.

