

**15.391 Revocation of peace officer certification -- Appeal -- Hearing -- Mandatory reporting -- Subpoenas -- Administrative regulations.**

(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 and shall be specific to whether the Kentucky Law Enforcement Council has met the requirements under this section to revoke an individual's peace officer certification;
- (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) "Investigating agency" means an agency that investigates the use of force, a criminal act, or an administrative violation by peace officers, including but not limited to the employing agency;
- (e) "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, or any act that involves the following:
  - 1. The unjustified use of excessive or deadly force, as determined by an investigating agency;
  - 2. Any intentional action by a peace officer that interferes with or alters the fair administration of justice, including but not limited to tampering with evidence, giving of false testimony, or the intentional disclosure of confidential information in a manner that compromises the integrity of an official investigation; or
  - 3. Engaging in a sexual relationship with an individual the peace officer knows or should have known is a victim, witness, defendant, or informant in an ongoing criminal investigation in which the peace officer is directly involved;
- (f) "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, or any failure to act that involves the following:
  - 1. The failure to intervene when it is safe and practical to do so in any circumstance where it is clear and apparent to the peace officer that another peace officer is engaging in the use of unlawful and unjustified excessive or deadly force; or
  - 2. The intentional failure to disclose exculpatory or impeachment evidence that the peace officer knew or should have known to be materially favorable to an accused for the purpose of altering the fair administration of justice; and

- (g) "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 be deemed automatically revoked by the council by operation of the law for one (1) or more of the following:
  - 1. Certification that was the result of an administrative error;
  - 2. Plea of guilty to, conviction of, or entering of an Alford plea to:
    - a. Any state or federal felony;
    - b. A misdemeanor under KRS 510.120, 510.130, or 510.140; a second or subsequent offense under KRS 510.148; or a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct;
    - c. Any criminal offense committed in another state that would constitute a felony if committed in this state; or
    - d. Any criminal offense committed in another state that would, if committed in this state, constitute a misdemeanor under KRS 510.120, 510.130, or 510.140; a second or subsequent offense under KRS 510.148; or a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct;
  - 3. Prohibition by federal or state law from possessing a firearm;
  - 4. Receipt of a dishonorable discharge or bad conduct discharge from any branch of the Armed Forces of the United States; or
  - 5. Willful falsification of information to obtain or maintain certification.
- (b)
  - 1. A peace officer whose certification is revoked pursuant to paragraph (a) of this subsection may file an appeal at any time 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.
  - 2. The council may impose any reasonable condition upon the reinstatement of the certification it may deem warranted under the facts of the appeal.
  - 3. Notwithstanding any other provision of law, the council may subpoena or request a court to subpoena records that are necessary to provide evidence that will permit the council to evaluate the conditions of separation. Any confidential, active investigation, or medical information received by the council under this subparagraph shall retain its confidential character.
  - 4. The reversal or any other type of invalidation of a conviction by an

appellate court shall constitute the removal or remedy of a condition requiring revocation. However, an expungement of an offense shall not be considered a removal or remedy that constitutes grounds for the reinstatement of the peace officer's certification under this paragraph.

5. A final order issued by the council denying reinstatement of certification may be appealed pursuant to the provisions of KRS 13B.140.
- (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 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 KRS 15.386;
  2. Termination of the peace officer for professional malfeasance or professional nonfeasance by his or her agency;
  3. Termination of the peace officer following the plea of guilty to, conviction of, or entering of an Alford plea to any misdemeanor offense, in this state or out of it, that involves:
    - a. Dishonesty;
    - b. Fraud;
    - c. Deceit;
    - d. Misrepresentation;
    - e. Physical violence;
    - f. Sexual abuse; or
    - g. Crimes against a minor or a family or household member;
  4. 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; or
  5. 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 judgment of the agency that employed the peace officer, would have likely resulted in the termination of that peace officer had the facts leading to the investigation been substantiated prior to his or her resignation or retirement.
- (b) The council shall review reports of events described in paragraph (a) of this subsection to determine whether the event warrants the initiation of proceedings by the council to revoke a peace officer's certification. If the council determines to initiate proceedings to revoke a peace officer's certification under this subsection, the administrative hearing shall be conducted pursuant to KRS Chapter 13B. A final order by the council revoking certification may be appealed pursuant to the provisions of KRS 13B.140.
- (c) Notwithstanding any other provision of law, the council may subpoena or request a court to subpoena records that are necessary to provide evidence that

will permit the council to evaluate the conditions of separation. Any confidential, active investigation, or medical information received by the council under this paragraph shall retain its confidential character.

- (4) (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. That terminated a peace officer for any of the revocation conditions outlined in subsection (3)(a)1., 2., 3., or 4. 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)5. 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.
- (5) The council may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

**Effective:** June 29, 2023

**History:** Amended 2023 Ky. Acts ch. 170, sec. 5, effective June 29, 2023. -- Amended 2022 Ky. Acts ch. 232, sec. 3, effective July 14, 2022. -- Amended 2021 Ky. Acts ch. 73, sec. 1, effective June 29, 2021. -- Amended 2019 Ky. Acts ch. 95, sec. 1, effective June 27, 2019. -- Created 2007 Ky. Acts ch. 139, sec. 1, effective June 26, 2007.