

1 AN ACT relating to peace officer certification.

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

3 ➔Section 1. KRS 15.382 is amended to read as follows:

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

- 6 (1) Be a citizen of the United States;
- 7 (2) Be at least twenty-one (21) years of age;
- 8 (3) (a) Be a high school graduate, regardless of whether the school is accredited or
9 certified by a governing body, provided that the education received met the
10 attendance and curriculum standards of Kentucky law at the time of
11 graduation, as determined by the Kentucky Department of Education; or
- 12 (b) Possess a High School Equivalency Diploma;
- 13 (4) Possess a valid license to operate a motor vehicle;
- 14 (5) Be fingerprinted for a criminal background check;
- 15 (6) Not have been convicted of any felony; ***a misdemeanor under KRS 510.120,***
16 ***510.130, or 510.140; a second or subsequent offense of KRS 510.148; or a***
17 ***criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of***
18 ***rape, sodomy, sexual abuse, or sexual misconduct;***
- 19 (7) Not be prohibited by federal or state law from possessing a firearm;
- 20 (8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as
21 established by the council;
- 22 (9) Have not received a dishonorable discharge, bad conduct discharge, or general
23 discharge under other than honorable conditions, if having served in any branch of
24 the Armed Forces of the United States;
- 25 (10) Have passed a medical examination as defined by the council by administrative
26 regulation and provided by a licensed physician, physician assistant, or advanced
27 practice registered nurse to determine if he can perform peace officer duties as

1 determined by a validated job task analysis. However, if the employing agency has
2 its own validated job task analysis, the person shall pass the medical examination,
3 appropriate to the agency's job task analysis, of the employing agency. All agencies
4 shall certify passing medical examination results to the council, which shall accept
5 them as complying with KRS 15.310 to 15.510;

6 (11) Have passed a drug screening test administered or approved by the council by
7 administrative regulation. A person shall be deemed to have passed a drug screening
8 test if the results of the test are negative for the use of an illegal controlled
9 substance or prescription drug abuse. Any agency that administers its own test that
10 meets or exceeds this standard shall certify passing test results to the council, which
11 shall accept them as complying with KRS 15.310 to 15.510;

12 (12) Have undergone a background investigation established or approved by the council
13 by administrative regulation to determine suitability for the position of a peace
14 officer. If the employing agency has established its own background investigation
15 that meets or exceeds the standards of the council, as set forth by administrative
16 regulation, the agency shall conduct the background investigation and shall certify
17 background investigation results to the council, which shall accept them as
18 complying with KRS 15.310 to 15.510;

19 (13) Have been interviewed by the employing agency;

20 (14) Not have had certification as a peace officer permanently revoked in another state;

21 (15) Have taken a psychological suitability screening administered or approved by the
22 council by administrative regulation to determine the person's suitability to perform
23 peace officer duties as determined by a council validated job task analysis.
24 However, if the employing agency has its own validated job task analysis, the
25 person shall take that agency's psychological examination, appropriate to the
26 agency's job task analysis. All agencies shall certify psychological examination
27 results to the council, which shall accept them as complying with KRS 15.310 to

1 15.510;

2 (16) Have passed a physical agility test administered or approved by the council by
3 administrative regulation to determine his suitability to perform peace officer duties
4 as determined by a council validated job task analysis. However, if the employing
5 agency has its own validated job task analysis, the person shall take the physical
6 agility examination of the employing agency. All agencies shall certify physical
7 agility examination results to the council, which shall accept them as demonstrating
8 compliance with KRS 15.310 to 15.510; and

9 (17) Have taken a polygraph examination administered or approved by the council by
10 administrative regulation to determine his suitability to perform peace officer duties.
11 Any agency that administers its own polygraph examination as approved by the
12 council shall certify the results that indicate whether a person is suitable for
13 employment as a peace officer to the council, which shall accept them as complying
14 with KRS 15.310 to 15.510.

15 ➔Section 2. KRS 15.386 is amended to read as follows:

16 The following certification categories shall exist:

17 (1) "Precertification status" means that the officer is currently employed or appointed
18 by an agency and meets or exceeds all those minimum qualifications set forth in
19 KRS 15.382, but has not successfully completed a basic training course, except
20 those peace officers covered by KRS 15.400. Upon the council's verification that
21 the minimum qualifications have been met, the officer shall have full peace officer
22 powers as authorized under the statute under which he or she was appointed or
23 employed. If an officer fails to successfully complete a basic training course within
24 one (1) year of employment, his or her enforcement powers shall automatically
25 terminate, unless that officer is actively enrolled and participating in a basic training
26 course or, after having begun a basic training course, is on an approved extension of
27 time due to injury or extenuating circumstances;

- 1 (2) "Certification status" means that unless the certification is in revoked status or
2 inactive status, the officer is currently employed or appointed by an agency and has
3 met all training requirements. The officer shall have full peace officer powers as
4 authorized under the statute under which he or she was appointed or employed;
- 5 (3) (a) "Inactive status" means that unless the certification is in revoked status:
6 1. The person has been separated on or after December 1, 1998, from the
7 agency by which he or she was employed or appointed and has no peace
8 officer powers; or
9 2. The person is on military active duty for a period exceeding three
10 hundred sixty-five (365) days.
- 11 (b) The person may remain on inactive status. A person who is on inactive status
12 and who returns to a peace officer position shall have certification status
13 restored if he or she meets the requirements of KRS 15.400(1) or has
14 successfully completed a basic training course approved and recognized by the
15 council, has not committed an act for which his or her certified status may be
16 revoked pursuant to KRS 15.391 and successfully completes in-service
17 training as prescribed by the council, as follows:
18 1. If the person has been on inactive status for a period of less than three
19 (3) years, and the person was not in training deficiency status at the time
20 of separation, he or she shall complete:
21 a. The twenty-four (24) hour legal update Penal Code course;
22 b. The sixteen (16) hour legal update constitutional procedure course;
23 and
24 c. The mandatory training course approved by the Kentucky Law
25 Enforcement Council, pursuant to KRS 15.334, for the year in
26 which he or she returns to certification status; or
27 2. If the person has been on inactive status for a period of three (3) years or

1 more, or the person was in training deficiency status at the time of
2 separation, he or she shall complete:

- 3 a. The twenty-four (24) hour legal update Penal Code course;
- 4 b. The sixteen (16) hour legal update constitutional procedure course;
- 5 c. The mandatory training course approved by the Kentucky Law
6 Enforcement Council, pursuant to KRS 15.334, for the year in
7 which he or she returns to certification status; and
- 8 d. One (1) of the following forty (40) hour courses which is most
9 appropriate for the officer's duty assignment:
 - 10 i. Basic officer skills;
 - 11 ii. Orientation for new police chiefs; or
 - 12 iii. Mandatory duties of the sheriff.

13 (c) A person returning from inactive to active certification after June 26, 2007,
14 under KRS 15.380 to 15.404, shall meet the following minimum
15 qualifications:

- 16 1. Be a citizen of the United States;
- 17 2. Possess a valid license to operate a motor vehicle;
- 18 3. Be fingerprinted for a criminal background check;
- 19 4. Not have been convicted of any felony; **a misdemeanor under KRS**
20 **510.120, 510.130, or 510.140; a second or subsequent offense of KRS**
21 **510.148; or a criminal attempt, conspiracy, facilitation, or solicitation**
22 **to commit any degree of rape, sodomy, sexual abuse, or sexual**
23 **misconduct;**
- 24 5. Not be prohibited by federal or state law from possessing a firearm;
- 25 6. Have received and read the Kentucky Law Enforcement Officers Code
26 of Ethics as established by the council;
- 27 7. Have not received a dishonorable discharge, bad conduct discharge, or

1 general discharge under other than honorable conditions, if having
2 served in any branch of the Armed Forces of the United States;

3 8. Have been interviewed by the employing agency; and

4 9. Not have had certification as a peace officer permanently revoked in
5 another state;

6 (4) "Training deficiency status" means that unless the certification is in revoked status
7 or inactive status, the officer is currently employed or appointed by an agency and
8 has failed to meet all in-service training requirements. The officer's enforcement
9 powers shall automatically terminate, and he or she shall not exercise peace officer
10 powers in the Commonwealth until he or she has corrected the in-service training
11 deficiency;

12 (5) "Revoked status" means that the officer has no enforcement powers and his or her
13 certification has been revoked by the Kentucky Law Enforcement Council under
14 KRS 15.391; and

15 (6) "Denied status" means that a person does not meet the requirements to achieve
16 precertification status or certification status.

17 The design of a certificate may be changed periodically. When a new certificate is
18 produced, it shall be distributed free of charge to each currently certified peace officer.

19 ➔Section 3. KRS 15.391 is amended to read as follows:

20 (1) As used in this section:

21 (a) "Agency" means any law enforcement agency, or other unit of government
22 listed in KRS 15.380, that employs a certified peace officer;

23 (b) "Final order" has the same meaning as in KRS 13B.010;

24 (c) "General employment policy" means a rule, regulation, policy, or procedure
25 commonly applicable to the general workforce or civilian employees that is
26 not unique to law enforcement activities or the exercise of peace officer
27 authority, regardless of whether the rule, regulation, policy, or procedure

1 exists or appears in a manual or handbook that is solely applicable to a law
 2 enforcement department or agency within the unit of government employing
 3 the officer;

4 (d) "Professional malfeasance" means engaging in an act in one's professional
 5 capacity as a peace officer that violates a federal, state, or local law or
 6 regulation;

7 (e) "Professional nonfeasance" means a failure to perform one's professional duty
 8 as a peace officer through omission or inaction that violates a federal, state, or
 9 local law or regulation; and

10 (f) "Regulation" means:

- 11 1. A federal or state administrative regulation adopted by a federal or state
 12 executive branch; and
- 13 2. A local rule, regulation, policy, or procedure adopted by ordinance,
 14 order, or resolution, or other official action by an agency. However,
 15 "regulation" does not mean a general employment policy.

16 (2) (a) The certification of a peace officer shall be revoked by the council for one (1)
 17 or more of the following:

- 18 1. Certification that was the result of an administrative error;
- 19 2. Plea of guilty to, conviction of, or entering of an Alford plea to any
 20 felony; a misdemeanor under KRS 510.120, 510.130, or 510.140; a
 21 second or subsequent offense of KRS 510.148; or a criminal attempt,
 22 conspiracy, facilitation, or solicitation to commit any degree of rape,
 23 sodomy, sexual abuse, or sexual misconduct;
- 24 3. Prohibition by federal or state law from possessing a firearm; or
- 25 4. Receipt of a dishonorable discharge or bad conduct discharge from any
 26 branch of the Armed Forces of the United States.

27 (b) A peace officer whose certification is revoked pursuant to paragraph (a) of

1 this subsection may file an appeal with the council. If an appeal is filed, the
2 council shall conduct an administrative hearing pursuant to KRS Chapter 13B
3 to consider the reinstatement of the peace officer's certification if the
4 revocation was made in error or the condition requiring revocation was
5 removed or remedied.

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

- 8 1. Termination of the peace officer for willful falsification of information
9 to obtain or maintain certified status;
- 10 2. Termination of the peace officer for failure to meet or maintain training
11 requirements, unless the certification is in inactive status. As used in this
12 subparagraph, "inactive status" has the same meaning as in KRS 15.386;
- 13 3. Termination of the peace officer for professional malfeasance or
14 professional nonfeasance by his or her agency;
- 15 4. Resignation or retirement of the peace officer while he or she is under
16 criminal investigation or administrative investigation for professional
17 malfeasance or professional nonfeasance that, in the judgment of the
18 agency that employed the peace officer, would have likely resulted in the
19 termination of that peace officer had it been substantiated prior to his or
20 her resignation or retirement; or
- 21 5. Receipt of general discharge under other than honorable conditions from
22 any branch of the Armed Forces of the United States that results in the
23 termination of the peace officer from his or her agency.

24 (b) The council shall review any allegations or reports of paragraph (a)1. to 5. of
25 this subsection to determine whether the allegation or report warrants the
26 initiation of proceedings to revoke a peace officer's certification. If the council
27 determines to initiate proceedings to revoke a peace officer's certification

1 based on the allegation or report, the administrative hearing shall be
2 conducted pursuant to KRS Chapter 13B.

3 (4) A peace officer may appeal a final order issued by the council denying
4 reinstatement of his or her certification pursuant to subsection (2) of this section or
5 revoking his or her certification pursuant to subsection (3) of this section as
6 provided in KRS 13B.140.

7 (5) (a) An agency:

8 1. That has knowledge of a peace officer in its employment who meets any
9 of the revocation conditions outlined in subsection (2) of this section
10 shall report that condition to the council within fifteen (15) days of
11 gaining knowledge;

12 2. That terminated a peace officer for any of the revocation conditions
13 outlined in subsection (3)(a)1., 2., 3., or 5. of this section shall report
14 that condition to the council within fifteen (15) days of the termination;
15 and

16 3. That would have likely terminated a peace officer for the revocation
17 condition outlined in subsection (3)(a)4. of this section shall report that
18 condition to the council within fifteen (15) days of the peace officer's
19 resignation or retirement. If an agency reports pursuant to this
20 subparagraph, the agency shall notify the peace officer that a report has
21 been made.

22 (b) If an agency fails to make a report required by this subsection, the council may
23 suspend the agency from participation in the Kentucky Law Enforcement
24 Foundation Program fund. However, the time that an agency may be
25 suspended by the council under this paragraph shall not exceed five (5) years.

26 (6) The council may promulgate administrative regulations in accordance with KRS
27 Chapter 13A to implement this section.