

1 AN ACT relating to peace officers.

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

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

4 (1) As used in this section:

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

7 (b) "Final order" has the same meaning as in KRS 13B.010 and shall be specific
8 to whether the Kentucky Law Enforcement Council has met the requirements
9 under this section to revoke an individual's peace officer certification;

10 (c) "General employment policy" means a rule, regulation, policy, or procedure
11 commonly applicable to the general workforce or civilian employees that is
12 not unique to law enforcement activities or the exercise of peace officer
13 authority, regardless of whether the rule, regulation, policy, or procedure
14 exists or appears in a manual or handbook that is solely applicable to a law
15 enforcement department or agency within the unit of government employing
16 the officer;

17 (d) "Investigating agency" means an agency that investigates the use of force, a
18 criminal act, or an administrative violation by peace officers, including but
19 not limited to the employing agency;

20 (e) "Professional malfeasance" means engaging in an act in one's professional
21 capacity as a peace officer that violates a federal, state, or local law or
22 regulation, or any act that involves the following:

23 1. The unjustified use of excessive or deadly force, as determined by an
24 investigating agency;

25 2. Any intentional action by a peace officer that interferes with or alters the
26 fair administration of justice, including but not limited to tampering with
27 evidence, giving of false testimony, or the intentional disclosure of

1 confidential information in a manner that compromises the integrity of
2 an official investigation; or

3 3. Engaging in a sexual relationship with an individual the peace officer
4 knows or should have known is a victim, witness, defendant, or
5 informant in an ongoing criminal investigation in which the peace
6 officer is directly involved;

7 (f) "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, or any failure to act that involves the following:

10 1. The failure to intervene when it is safe and practical to do so in any
11 circumstance where it is clear and apparent to the peace officer that
12 another peace officer is engaging in the use of unlawful and unjustified
13 excessive or deadly force; or

14 2. The intentional failure to disclose exculpatory or impeachment evidence
15 that the peace officer knew or should have known to be materially
16 favorable to an accused for the purpose of altering the fair
17 administration of justice; and

18 (g) "Regulation" means:

19 1. A federal or state administrative regulation adopted by a federal or state
20 executive branch; and

21 2. A local rule, regulation, policy, or procedure adopted by ordinance,
22 order, or resolution, or other official action by an agency. However,
23 "regulation" does not mean a general employment policy.

24 (2) (a) The certification of a peace officer shall be deemed automatically revoked by
25 the council by operation of the law for one (1) or more of the following:

26 1. Certification that was the result of an administrative error;

27 2. Plea of guilty to, conviction of, or entering of an Alford plea to:

- 1 a. Any state or federal felony;
- 2 b. A misdemeanor under KRS 510.120, 510.130, or 510.140; a
- 3 second or subsequent offense under KRS 510.148; or a criminal
- 4 attempt, conspiracy, facilitation, or solicitation to commit any
- 5 degree of rape, sodomy, sexual abuse, or sexual misconduct;
- 6 c. Any criminal offense committed in another state that would
- 7 constitute a felony if committed in this state; or
- 8 d. Any criminal offense committed in another state that would, if
- 9 committed in this state, constitute a misdemeanor under KRS
- 10 510.120, 510.130, or 510.140; a second or subsequent offense
- 11 under KRS 510.148; or a criminal attempt, conspiracy, facilitation,
- 12 or solicitation to commit any degree of rape, sodomy, sexual
- 13 abuse, or sexual misconduct;
- 14 3. Prohibition by federal or state law from possessing a firearm;
- 15 4. Receipt of a dishonorable discharge or bad conduct discharge from any
- 16 branch of the Armed Forces of the United States; or
- 17 5. Willful falsification of information to obtain or maintain certification.
- 18 (b) 1. A peace officer whose certification is revoked pursuant to paragraph (a)
- 19 of this subsection may file an appeal at any time with the council. If an appeal
- 20 is filed, the council shall conduct an administrative hearing pursuant to KRS
- 21 Chapter 13B to consider the reinstatement of the peace officer's certification if
- 22 the revocation was made in error or the condition requiring revocation was
- 23 removed or remedied.
- 24 2. The council may impose any reasonable condition upon the
- 25 reinstatement of the certification it may deem warranted under the facts
- 26 of the appeal.
- 27 3. Notwithstanding any other provision of law, the council may subpoena

1 or request a court to subpoena records that are necessary to provide
2 evidence that will permit the council to evaluate the conditions of
3 separation. Any confidential, active investigation, or medical
4 information received by the council under this subparagraph shall retain
5 its confidential character.

6 4. The reversal or any other type of invalidation of a conviction by an
7 appellate court shall constitute the removal or remedy of a condition
8 requiring revocation. However, an expungement of an offense shall not
9 be considered a removal or remedy that constitutes grounds for the
10 reinstatement of the peace officer's certification under this paragraph.

11 5. A final order issued by the council denying reinstatement of certification
12 may be appealed pursuant to the provisions of KRS 13B.140.

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

15 1. Termination of the peace officer for failure to meet or maintain training
16 requirements, unless the certification is in inactive status. As used in this
17 subparagraph, "inactive status" has the same meaning as in KRS 15.386;

18 2. Termination of the peace officer for professional malfeasance or
19 professional nonfeasance by his or her agency;

20 3. Termination of the peace officer following the plea of guilty to,
21 conviction of, or entering of an Alford plea to any misdemeanor offense,
22 in this state or out of it, that involves:

23 a. Dishonesty;

24 b. Fraud;

25 c. Deceit;

26 d. Misrepresentation;

27 e. Physical violence;

- 1 f. Sexual abuse; or
- 2 g. Crimes against a minor or a family or household member;
- 3 4. Receipt of general discharge under other than honorable conditions from
- 4 any branch of the Armed Forces of the United States that results in the
- 5 termination of the peace officer from his or her agency; or
- 6 5. Resignation or retirement of the peace officer while he or she is under
- 7 criminal investigation or administrative investigation for professional
- 8 malfeasance or professional nonfeasance that, in the judgment of the
- 9 agency that employed the peace officer, would have likely resulted in
- 10 the termination of that peace officer had the facts leading to the
- 11 investigation been substantiated prior to his or her resignation or
- 12 retirement.
- 13 (b) 1. The council shall review reports of events described in paragraph (a) of
- 14 this subsection to determine whether the event warrants the initiation of
- 15 proceedings by the council to revoke a peace officer's certification.
- 16 2. If the council determines to initiate proceedings to revoke a peace
- 17 officer's certification under:
- 18 a. Paragraph (a)1., 3., or 4. of this subsection, the administrative
- 19 hearing shall be conducted pursuant to KRS Chapter 13B.; or
- 20 b. Paragraph (a)2. or 5. of this subsection and the council finds,
- 21 based upon substantial evidence, that the events alleged against
- 22 the peace officer by the employing agency:
- 23 i. Occurred; and
- 24 ii. Constitute professional malfeasance or professional
- 25 nonfeasance;
- 26 the administrative hearing shall be conducted pursuant to KRS
- 27 Chapter 13B.

1 **3.** A final order by the council revoking certification may be appealed
2 pursuant to the provisions of KRS 13B.140.

3 (c) **A peace officer who is subject to a proceeding under paragraph (b) of this**
4 **subsection shall have the right to appear and be heard before the council, in**
5 **person or by legal counsel.**

6 **(d) 1. Any proceedings under paragraph (b) of this subsection shall be**
7 **initiated within ninety (90) days of the earlier of:**

8 **a. The receipt by the council of any report made by an employing**
9 **agency alleging that the peace officer meets any of the criteria**
10 **for revocation under paragraph (a) of this subsection; or**

11 **b. The date the employing agency is required to report the**
12 **revocation condition under subsection (4)(a) 2. or 3. of this**
13 **section.**

14 **2. Any proceedings under paragraph (b) of this subsection that are not**
15 **initiated in accordance with subparagraph 1. of this paragraph shall**
16 **be dismissed with prejudice.**

17 **(e)** Notwithstanding any other provision of law, the council may subpoena or
18 request a court to subpoena records that are necessary to provide evidence that
19 will permit the council to evaluate the conditions of separation. Any
20 confidential, active investigation, or medical information received by the
21 council under this paragraph shall retain its confidential character.

22 (4) (a) An agency:
23 1. That has knowledge of a peace officer in its employment who meets any
24 of the revocation conditions outlined in subsection (2) of this section
25 shall report that condition to the council within fifteen (15) days of
26 gaining knowledge;

27 2. That terminated a peace officer for any of the revocation conditions

1 outlined in subsection (3)(a)1., 2., 3., or 4. of this section shall report
2 that condition to the council within fifteen (15) days of the termination;
3 and

4 3. That would have likely terminated a peace officer for the revocation
5 condition outlined in subsection (3)(a)5. of this section shall report that
6 condition to the council within fifteen (15) days of the peace officer's
7 resignation or retirement. If an agency reports pursuant to this
8 subparagraph, the agency shall notify the peace officer that a report has
9 been made.

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

14 (5) *A certification of a peace officer shall not be revoked under this section unless*
15 *the council finds, based upon substantial evidence, that the employing agency*
16 *complied with the requirements of KRS 15.520 or 67C.321, 67C.323, 67C.325, and*
17 *67C.326, as applicable, and any applicable collective bargaining agreement.*

18 (6) *Any proceeding initiated under subsection (2) or (3) of this section shall be*
19 *complete and result in a final order within one hundred eighty (180) days of the*
20 *initiation of the proceeding. This requirement may be waived by the peace officer*
21 *in writing and during an in-person appearance before the council on the record.*
22 *The peace officer shall be afforded an adequate opportunity to consult with legal*
23 *counsel prior to any waiver.*

24 (7) The council may promulgate administrative regulations in accordance with KRS
25 Chapter 13A to implement this section.

26 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) Any peace officer who has been the subject of a report to the Kentucky Law
 2 Enforcement Council under Section 1 of this Act which was knowingly false,
 3 deliberately misleading, or made with malicious intent at the time it was presented
 4 shall have a civil cause of action against the person responsible for the report for
 5 compensatory and punitive damages.

6 (2) The action shall be filed in the Circuit Court of the county where the peace
 7 officer resides.

8 ➔Section 3. KRS 413.115 is amended to read as follows:

9 The following actions shall be commenced within three (3) years after the cause of action
 10 accrued:

11 (1) An action against an employer for wrongful discharge in violation of public policy; ~~and~~
 12 ~~and~~

13 (2) An action for a violation of KRS 344.030 to 344.110 or 344.372; and

14 (3) An action against a person who filed a false report to the Kentucky Law
 15 Enforcement Council as described in Section 2 of this Act.

16 ➔Section 4. KRS 15.420 is amended to read as follows:

17 As used in KRS 15.410 to 15.510, unless the context otherwise requires:

18 (1) "Cabinet" means the Justice and Public Safety Cabinet;

19 (2) (a) "Police officer" means:

20 1. A local officer, limited to:

21 a. A full-time:

22 i. Member of a lawfully organized police department of
 23 county, urban-county, or city government; or

24 ii. Sheriff or full-time deputy sheriff, including any sheriff
 25 providing court security or appointed under KRS 70.030;

26 b. A school resource officer as defined in KRS 158.441; or

27 c. One (1) of the following who is otherwise eligible for an annual

1 supplement established in accordance with KRS 15.460, but who
2 does not receive one:

- 3 i. An officer serving on a joint task force;
- 4 ii. A detective employed by a county attorney;
- 5 iii. A process server for juvenile courts within a consolidated
6 local government; and
- 7 iv. A local alcoholic beverage control investigator appointed
8 pursuant to KRS Chapter 241; and

9 2. A state officer, limited to:

- 10 a. A public university police officer;
- 11 b. A Kentucky state trooper;
- 12 c. A Kentucky State Police arson investigator;
- 13 d. A Kentucky State Police hazardous device investigator;
- 14 e. A Kentucky State Police legislative security specialist;
- 15 f. A Kentucky vehicle enforcement officer;
- 16 g. A Kentucky Horse Park mounted patrol officer, subject to KRS
17 15.460(1)(f);
- 18 h. A Kentucky state park ranger, subject to KRS 15.460(1)(f);
- 19 i. An agriculture investigator;
- 20 j. A charitable gaming investigator;
- 21 k. An alcoholic beverage control investigator;
- 22 l. An insurance fraud investigator;
- 23 m. An Attorney General investigator;
- 24 n. A Kentucky Department of Fish and Wildlife Resources game
25 warden, subject to KRS 15.460(1)(e);~~and~~
- 26 o. Any detective for a Commonwealth's attorney who would
27 otherwise be eligible for a supplement established in accordance

- 1 with KRS 15.460, but who does not receive one; and
- 2 p. A Kentucky State Fair Board special police officer, subject to
- 3 KRS 15.460(1)(f);
- 4 who is responsible for the prevention and detection of crime and the
- 5 enforcement of the general criminal laws of the state;
- 6 (b) "Police officer" does not include any sheriff who earns the maximum
- 7 constitutional salary for this office, any special deputy sheriff appointed under
- 8 KRS 70.045, any constable, deputy constable, district detective, deputy
- 9 district detective, special local peace officer, auxiliary police officer, or any
- 10 other peace officer not specifically authorized in KRS 15.410 to 15.510;
- 11 (3) "Police department" means the employer of a police officer;
- 12 (4) "Retirement plan" means a defined benefit plan consisting of required employer
- 13 contributions pursuant to KRS 61.565, 61.702, or any other provision of law;
- 14 (5) "Unit of government" means any city, county, combination of cities and counties,
- 15 public university, state agency, local school district, or county sheriff's office of the
- 16 Commonwealth; and
- 17 (6) "Validated job task analysis" means the core job description that describes the
- 18 minimum entry level requirements, qualifications, and training requirements for
- 19 peace officers in the Commonwealth, and that is based upon an actual survey and
- 20 study of police officer duties and responsibilities conducted by an entity recognized
- 21 by the council as being competent to conduct such a study.