AN ACT relating to peace officers.

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

➔Section 1. KRS 15.310 is amended to read as follows:

As used in KRS 15.310 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

(1) ***"Agency" means any law enforcement agency or other unit of government listed in KRS 15.380 that employs a certified peace officer or certified court security officer;***

(2) "Basic training course" means the peace officer or court security officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;

(3) ~~[(2)]~~ "Certified court security officer" means a court security officer who is certified under KRS 15.380 to 15.404;

(4) ~~[(3)]~~ "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.404;

(5) ~~[(4)]~~ "Certification" means the act by the council of issuing certification to a peace officer or court security officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;

(6) ~~[(5)]~~ "Council" means the Kentucky Law Enforcement Council established by KRS 15.310 to 15.510, 15.990, and 15.992;

(7) "Court order" means any judgment, decree, or order restraining a person from a possessing a firearm that was issued by a federal court or a court in the Commonwealth or any other state after a hearing where the person received actual notice of the hearing and was afforded the opportunity to participate;

(8) ~~[(6)]~~ "Court security officer" means a person required to be certified under KRS 15.380(1)(c) and who is charged with the duties set out in KRS 70.280;

(9) ~~[(7)]~~ "Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;

(10) ~~[(8)]~~ "Fire investigator" means a professional firefighter, as used in KRS 95A.210, who has been appointed to investigate offenses under KRS Chapter 513 and to exercise peace officer powers under KRS 95A.100, or a deputy fire marshal who has been appointed to be a fire investigator and to exercise peace officer powers under KRS 227.220;

(11) ~~[(9)]~~ "Law enforcement officer" means a member of a lawfully organized police unit or police force of ***a*** county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus police officers, law enforcement support personnel, public airport authority security officers, and other public and federal peace officers responsible for law enforcement;

(12) ~~[(10)]~~ "Peace officer" means a person defined in KRS 446.010, or a fire investigator appointed to exercise peace officer powers under KRS 95A.100 or 227.220;

(13) ~~[(11)]~~ "Secretary" means the secretary of the Justice and Public Safety Cabinet; and

(14) ~~[(12)]~~ "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

➔Section 2. KRS 15.382 is amended to read as follows:

Prior to being hired, any ~~[A]~~ person ***seeking to become*** certified after December 1, 1998, under KRS 15.380 to 15.404 or qualified under the requirements set forth in KRS 15.440(1)(d)6. shall~~[, at the time of becoming certified,]~~ meet the following minimum qualifications:

(1) Be a citizen of the United States;

(2) ***Except as provided under KRS 15.408,*** be at least twenty-one (21) years of age;

(3) (a) Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; or

(b) Possess a High School Equivalency Diploma;

(4) Possess a valid license to operate a motor vehicle;

(5) Be fingerprinted for a criminal background check;

(6) Not have***:***

(a) Been convicted of***:***

1. Any felony;

2. A misdemeanor under KRS 510.120, 510.130, or 510.140;

3. A second or subsequent offense under KRS 510.148; or

4. A criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct; or

(b) ~~[have]~~Had any offense listed under this subsection expunged;

(7) Not be prohibited by ***a court order or any*** 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) ***(a) Except as provided in paragraph (b) of this subsection,*** have passed a medical examination as defined by the council by administrative regulation and provided by a licensed physician, physician assistant, or advanced practice registered nurse to determine if he or she can perform peace officer

duties as determined by a validated job task analysis.

(b) ~~[However,]~~If the employing agency has its own ***council-approved*** 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 15.310 to 15.510;

(11) ***(a)*** Have passed a drug screening test administered or approved by the council by administrative regulation.

(b) 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.

(c) 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 15.310 to 15.510;

(12) ***(a)*** Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer.

(b) 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 15.310 to 15.510;

(13) Have been interviewed by the employing agency;

(14) Not have had certification as a peace officer permanently revoked in ***the Commonwealth or*** another state;

(15) ***(a) Except as provided in paragraph (b) of this subsection,*** 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.

(b) [However,]If the employing agency has its own ***council-approved*** validated job task analysis, the person shall take that agency's psychological suitability screening, appropriate to the agency's job task analysis. All agencies shall certify psychological suitability screening results to the council, which shall accept them as complying with KRS 15.310 to 15.510;

(16) (a) ***1. Except as provided in subparagraph 2. of this paragraph,*** have passed a physical agility test administered or approved by the council by administrative regulation to determine his or her suitability to perform peace officer duties as determined by a council validated job task analysis.

2. [However,]If the employing agency has its own ***council-approved*** validated job task analysis, the person shall take the physical agility test of the employing agency. All agencies shall certify physical agility test results to the council, which shall accept them as demonstrating compliance with KRS 15.310 to 15.510.

(b) Notwithstanding paragraph (a) of this subsection, a person shall not be required to pass a physical agility test if the person can provide certified documentation that at the time of his or her application to the employing agency, the person:

1. Is currently employed, or has been separated from service for less than three (3) months, as a certified ***peace***[law enforcement] officer in another state;
2. Is currently in good standing, or separated from service in good standing, with the other state or law enforcement agency where he or she is certified;

3. Has been continuously employed as a ***full-time certified peace***~~[law enforcement]~~ officer in the state where he or she is certified for at least ten (10) years prior to his or her application; and

4. Has passed a physical agility test as a condition of employment with the law enforcement agency in the other state where he or she is certified; and

(17) ***(a)*** Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his or her suitability to perform peace officer duties.

(b) 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 15.310 to 15.510.

➔Section 3. 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 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***; or***

6. Resignation or retirement of the peace officer and subsequent discovery of conduct that, in the judgment of the agency that employed the peace officer, would constitute professional malfeasance or professional nonfeasance that would have likely resulted in the

termination of that peace officer had the facts been discovered 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***:***

a. 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***; or***

b. Subsection (3)(a)6. of this section shall report that condition to the council within fifteen (15) days of the discovery of the condition.

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.

➔Section 4. KRS 15.3975 is amended to read as follows:

(1) A court security officer employed or appointed after June 26, 2007, shall satisfy the basic training requirements for employment if he or she successfully completes law enforcement training developed and approved by the ~~[Kentucky Law Enforcement]~~council and the Administrative Office of the Courts of at least eighty (80) hours.

(2) A court security officer employed or appointed after June 26, 2007, shall successfully complete forty (40) hours of biennial in-service training that has been certified or recognized by the ~~[Kentucky Law Enforcement]~~council, and that is appropriate to the officer's responsibilities.

(3) In the event of extenuating circumstances beyond the control of a certified court security 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 ***executive director of the council***~~[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) ***(a)*** Any court security officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her court security powers and his or her precertification status shall lapse.

(b) Any court security officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her court security powers and his or her certification status shall be changed to training deficiency status. When a court security officer is deficient in required training, the ***executive director of the council*** ~~[commissioner of the department]~~ or his or her designee shall notify ~~[the council, which shall notify]~~the court security officer and his or her agency.

(5) A certified court security officer who has lost his or her court security 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 court security powers upon successful completion of the training deficiency.

➔Section 5. 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 a basic training course, as established by KRS 15.440, at a school certified or recognized by the ~~[Kentucky Law Enforcement]~~council or receive a basic training credit approved by the ~~[Kentucky Law Enforcement]~~council under KRS 15.440(1)(d)6.

(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

executive director of the council~~[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***:***

1. Lose his or her law enforcement powers and his or her precertification status shall lapse***; and***~~[. Further, the peace officer shall]~~

2. 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 ***executive director of the council***~~[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 ***executive director of the council*** ~~[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) 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.

(4) (a) Any constable who is elected may apply for admission to a basic training course, as established by KRS 15.440, at a school certified or recognized by the ~~[Kentucky Law Enforcement]~~council. The constable shall***:***

1. Meet all precertification requirements established pursuant to KRS 15.382 for attendance***; and*** ~~[. The constable shall]~~

2. Bear all costs associated with***:***

a. Precertification***; and*** ~~[. The constable shall bear all costs associated with]~~

b. Completion of the basic training course, except the costs of ***a*** basic training ***course provided under*** ~~[at a course established pursuant to]~~ KRS 15.340***(5)***.

(b) The basic training course shall accept the constable for basic training so long as:

1. The constable meets the precertification requirements; and

2. The basic training course has the training capacity to instruct the constable.

➔Section 6. KRS 15.405 is amended to read as follows:

(1) ~~[As used in this section, "agency" means any law enforcement agency, or other unit of government listed in KRS 15.380, that employs a certified peace officer.~~

~~(2)]~~***(a)*** Subject to subsection ***(4)***~~[(5)]~~ of this section, any agency may make a conditional offer of employment to a candidate pending its receipt and evaluation of a response to its request for information from:

1.~~[(a)]~~ The council regarding the certification status of any candidate, including if the council has:

a.~~[1.]~~ Received any notification under subsection KRS 15.391(4) related to the candidate;

b.~~[2.]~~ Initiated hearing procedures under KRS 15.391 against the candidate; or

c.~~[3.]~~ Started investigating whether to initiate hearing procedures for the revocation of the certification of the candidate under KRS 15.391; or

2.~~[(b)]~~ Any agency that previously employed the candidate for any information the agency is required to provide under subsection ***(2)***~~[(3)]~~ of this section.

(b) An agency shall request the information described under paragraph (a) of this subsection prior to making a conditional offer of employment.

(2)~~[(3)]~~ Any agency that receives an inquiry under subsection ***(1)***~~[(2)]~~ of this section from another agency regarding a candidate for a peace officer position who was formerly employed by the agency shall provide the following documentation to the hiring agency:

(a) A complete copy of the peace officer's personnel file;

(b) Any documentation related to the arrest or prosecution of the peace officer that the agency maintained;

(c) Any documentation related to a completed internal administrative investigation of the peace officer; and

(d) Any documentation related to an incomplete internal administrative investigation of the peace officer that was not completed because of the officer's resignation or retirement while the investigation was pending.

(3) ~~[(4)]~~ The council and any agency that receives a request for information shall provide it to the requesting hiring agency no later than fourteen (14) days following the receipt of the request.

(4) ~~[(5)]~~ The hiring agency that elects to make a conditional offer of employment subject to its receipt and evaluation of information pursuant to this section shall require the candidate to complete a waiver and release of liability authorizing the hiring agency to request the information from all prior agencies, which may include employing agencies outside of the Commonwealth.

(5) ~~[(6)]~~ The council, any agency, and the employees and officers of the council or any agency shall be immune from any civil liability for disclosing information pursuant to the provisions of this section and from any civil liability for the consequences of such a disclosure unless the information disclosed was knowingly false or deliberately misleading, was rendered with malicious purpose, or was in violation of any civil right of the former employee.

➔Section 7. KRS 15.992 is amended to read as follows:

Any person who knowingly violates any of the provisions of KRS 15.350 to 15.370 ***or Section 6 of this Act*** shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000).