

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;

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

15 **(d) "Investigating agency" means an agency that investigates the use of force**
16 **by peace officers, including but not limited to the employing agency;**

17 **(e)[(d)] "Professional malfeasance" means engaging in an act in one's**
18 **professional capacity as a peace officer that violates a federal, state, or local**
19 **law or regulation, *or any act that involves the following:***

20 **1. The unjustified use of excessive or deadly force, as determined by an**
21 **investigating agency;**

22 **2. Any intentional action by a peace officer that interferes with or alters**
23 **the fair administration of justice, including but not limited to**
24 **tampering with evidence, giving of false testimony, or the intentional**
25 **disclosure of confidential information in a manner that compromises**
26 **the integrity of an official investigation;**

27 **3. Engaging in a sexual relationship with an individual the peace officer**

1 *knows or should have known is a victim, witness, defendant, or*
 2 *informant in an ongoing criminal investigation in which the peace*
 3 *officer is directly involved;*

4 ~~(f)~~~~(e)~~ "Professional nonfeasance" means a failure to perform one's
 5 professional duty as a peace officer through omission or inaction that
 6 violates a federal, state, or local law or regulation, *or any failure to act*
 7 *that involves the following:*

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

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

16 ~~(g)~~~~(f)~~ "Regulation" means:

- 17 1. A federal or state administrative regulation adopted by a federal or state
 18 executive branch; and
- 19 2. A local rule, regulation, policy, or procedure adopted by ordinance,
 20 order, or resolution, or other official action by an agency. However,
 21 "regulation" does not mean a general employment policy.

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

- 24 1. Certification that was the result of an administrative error;
- 25 2. Plea of guilty to, conviction of, or entering of an Alford plea to any *state*
 26 *or federal* felony, *or any criminal offense committed in another state*
 27 *that would constitute a felony if committed in this state;*

- 1 3. Prohibition by federal or state law from possessing a firearm;~~[or]~~
- 2 4. Receipt of a dishonorable discharge or bad conduct discharge from any
- 3 branch of the Armed Forces of the United States; or
- 4 **5. Willful falsification of information to obtain or maintain certification.**
- 5 (b) **1.** A peace officer whose certification is revoked pursuant to paragraph (a)
- 6 of this subsection may file an appeal **at any time** with the council. If an
- 7 appeal is filed, the council shall conduct an administrative hearing
- 8 pursuant to KRS Chapter 13B to consider the reinstatement of the peace
- 9 officer's certification if the revocation was made in error or the condition
- 10 requiring revocation was removed or remedied.
- 11 **2. The council may impose any reasonable condition upon the**
- 12 **reinstatement of the certification it may deem warranted under the**
- 13 **facts of the appeal.**
- 14 **3. Notwithstanding any other provision of law, the council may**
- 15 **subpoena or request a court to subpoena records that are necessary to**
- 16 **provide evidence that will permit the council to evaluate whether the**
- 17 **cause for revocation has been remedied or removed. Any confidential**
- 18 **or medical information received by the council under this**
- 19 **subparagraph shall retain its confidential character.**
- 20 **4. The reversal or any other type of invalidation of a conviction by an**
- 21 **appellate court shall constitute the removal or remedy of a condition**
- 22 **requiring revocation. However, an expungement of a felony offense**
- 23 **shall not be considered a removal or remedy that constitutes grounds**
- 24 **for the reinstatement of the peace officer's certification under this**
- 25 **paragraph.**
- 26 **5. A final order issued by the council denying reinstatement of**
- 27 **certification may be appealed pursuant to the provisions of KRS**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

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 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 KRS 15.386;~~
 - 2.~~3.~~ Termination of the peace officer for professional malfeasance or professional nonfeasance by his or her agency;
 - 3.~~4.~~ **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

1 termination of that peace officer had the facts leading to the
 2 investigation~~[it]~~ been substantiated prior to his or her resignation or
 3 retirement~~[-or~~

4 ~~5.—Receipt of general discharge under other than honorable conditions from~~
 5 ~~any branch of the Armed Forces of the United States that results in the~~
 6 ~~termination of the peace officer from his or her agency].~~

7 (b) The council shall review ~~[any allegations or]~~reports of events described in
 8 paragraph (a)~~[1. to 5.]~~ of this subsection to determine whether the
 9 event~~[allegation or report]~~ warrants the initiation of proceedings by the
 10 council to revoke a peace officer's certification. If the council determines to
 11 initiate proceedings to revoke a peace officer's certification under this
 12 subsection~~[based on the allegation or report]~~, the administrative hearing shall
 13 be conducted pursuant to KRS Chapter 13B. A final order by the council
 14 revoking certification may be appealed pursuant to the provisions of KRS
 15 13B.140.

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

20 ~~(5)—~~(a) An agency:

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

25 2. That terminated a peace officer for any of the revocation conditions
 26 outlined in subsection (3)(a)1., 2., 3., or ~~4.~~~~[5.]~~ of this section shall report
 27 that condition to the council within fifteen (15) days of the termination;

1 and

2 3. That would have likely terminated a peace officer for the revocation
3 condition outlined in subsection (3)(a)~~5.4.~~ of this section shall report
4 that condition to the council within fifteen (15) days of the peace
5 officer's resignation or retirement. If an agency reports pursuant to this
6 subparagraph, the agency shall notify the peace officer that a report has
7 been made.

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

12 ~~(5)(6)~~ The council may promulgate administrative regulations in accordance with
13 KRS Chapter 13A to implement this section.

14 ➔Section 2. KRS 15.392 is amended to read as follows:

15 (1) Within ten (10) working days from separation from service, the chief executive
16 officer of the employing agency or his designee shall file with the council a
17 summary report that provides the relevant information about the person's separation
18 from service.

19 (2) If the person separated from service has successfully completed basic training at a
20 school certified or recognized by the council, the council shall place the certification
21 on inactive status. Placement of certification on inactive status shall not prevent the
22 council from subsequently instituting an action to revoke an officer's certification in
23 appropriate cases in accordance with KRS 15.391 ~~for any reason justifying revoked~~
24 ~~or denied status pursuant to KRS 15.386, the council shall revoke the person's~~
25 ~~certification].~~

26 (3) If the person has been separated from service or has not successfully completed
27 basic training at a school certified or recognized by the council and fails to meet the

1 requirements of KRS 15.400(1), the certification shall lapse.

2 (4) If the person has been separated due to death, the certification shall be retired.

3 ➔SECTION 3. A NEW SECTION OF KRS 15.310 TO 15.510 IS CREATED TO
4 READ AS FOLLOWS:

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

7 (2) Subject to subsection (5) of this section, any agency may make a conditional offer
8 of employment to a candidate pending its receipt and evaluation of a response to
9 its request for information from:

10 (a) The council regarding the certification status of any candidate, including if
11 the council has:

12 1. Received any notification under subsection (4) of Section 1 of this Act
13 related to the candidate;

14 2. Initiated hearing procedures under Section 1 of this Act against the
15 candidate; or

16 3. Started investigating whether to initiate hearing procedures for the
17 revocation of the certification of the candidate under Section 1 of this
18 Act; or

19 (b) Any agency that previously employed the candidate for any information the
20 agency is required to provide under subsection (3) of this section.

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

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

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

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

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

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

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

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

20 ➔SECTION 4. A NEW SECTION OF KRS 15.310 TO 15.510 IS CREATED TO
 21 READ AS FOLLOWS:

22 If requested by an out-of-state law enforcement agency, the council shall provide the
 23 following information regarding the certification status of any candidate for
 24 employment, including if the council has:

25 (1) Received any notification under subsection (4) of Section 1 of this Act related to
 26 the candidate;

27 (2) Initiated hearing procedures under Section 1 of this Act against the candidate; or

- 1 (3) Started investigating whether to initiate hearing procedures for the revocation of
- 2 the certification of the candidate under Section 1 of this Act.