

HOUSE COMMITTEE OF REFERENCE REPORT

\_\_\_\_\_  
Chairman of Committee

April 10, 2018  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB18-1076 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 2, strike lines 9 through 22 and substitute:  
2        (I) THE LAW ENFORCEMENT AGENCY THAT EMPLOYS OR  
3 EMPLOYED THE CERTIFICATE HOLDER NOTIFIES THE P.O.S.T. BOARD THAT,  
4 ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE  
5 CERTIFICATE HOLDER KNOWINGLY MADE AN UNTRUTHFUL STATEMENT  
6 CONCERNING A MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL  
7 FACT ON A CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH,  
8 OR DURING AN INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE  
9 ADMINISTRATIVE INVESTIGATION; AND  
10        (II) THE LAW ENFORCEMENT AGENCY CERTIFIES THAT:  
11        (A) IT COMPLETED AN ADMINISTRATIVE PROCESS DEFINED BY A  
12 PUBLISHED POLICY OF THE LAW ENFORCEMENT AGENCY, WHICH POLICY  
13 WAS IN EFFECT AT THE TIME THAT THE ALLEGED UNTRUTHFUL STATEMENT  
14 CONCERNING A MATERIAL FACT OR KNOWING OMISSION OF MATERIAL FACT  
15 OCCURRED; AND  
16        (B) THROUGH THAT PROCESS, THE LAW ENFORCEMENT AGENCY  
17 DETERMINED BY A CLEAR AND CONVINCING STANDARD OF THE EVIDENCE  
18 THAT, ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE  
19 OFFICER KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING A  
20 MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON AN  
21 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR  
22 DURING AN INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE  
23 ADMINISTRATIVE INVESTIGATION.  
24        (b) A LAW ENFORCEMENT AGENCY THAT MAKES A DETERMINATION

1 DESCRIBED IN SUBSECTION (2.5)(a)(II) OF THIS SECTION SHALL REPORT  
2 SUCH FACT TO THE P.O.S.T. BOARD ON A FORM THAT IS PRESCRIBED BY  
3 THE P.O.S.T. BOARD.

4 (c) IF A CERTIFICATE HOLDER WHO IS THE SUBJECT OF AN  
5 INVESTIGATION DESCRIBED IN SUBSECTION (2.5)(a)(II) OF THIS SECTION  
6 RESIGNS OR REFUSES TO COOPERATE IN THE INVESTIGATION, THE  
7 INVESTIGATING LAW ENFORCEMENT AGENCY SHALL COMPLETE THE  
8 INVESTIGATION WITH OR WITHOUT THE SUBJECT'S PARTICIPATION. IF THE  
9 RESULTS OF THE INVESTIGATION DEMONSTRATE BY A CLEAR AND  
10 CONVINCING STANDARD OF THE EVIDENCE THAT, ON OR AFTER THE  
11 EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE CERTIFICATE HOLDER  
12 KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING A  
13 MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON AN  
14 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR  
15 DURING AN INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE  
16 ADMINISTRATIVE INVESTIGATION, THE LAW ENFORCEMENT AGENCY SHALL  
17 NOTIFY THE P.O.S.T. BOARD AND REQUEST REVOCATION OF THE  
18 CERTIFICATE HOLDER'S CERTIFICATION ON A FORM PRESCRIBED BY THE  
19 P.O.S.T. BOARD.

20 (d) A PERSON WHOSE P.O.S.T. CERTIFICATION IS REVOKED  
21 PURSUANT TO THIS SUBSECTION (2.5) MAY APPEAL THE REVOCATION IN  
22 ACCORDANCE WITH RULES OF THE P.O.S.T. BOARD.

23 (e) THE RECORDS OF ANY LAW ENFORCEMENT AGENCY THAT ARE  
24 SUBMITTED FOR REVIEW BY THE P.O.S.T. BOARD FOR THE PURPOSES OF  
25 THIS SUBSECTION (2.5) REMAIN THE PROPERTY OF THE REPORTING LAW  
26 ENFORCEMENT AGENCY AND ARE NOT SUBJECT TO PUBLIC RELEASE BY THE  
27 P.O.S.T. BOARD.

28 (f) IF A CERTIFICATE HOLDER'S CERTIFICATE IS REVOKED  
29 PURSUANT TO THIS SECTION AND A COURT OF RECORD SUBSEQUENTLY  
30 REVERSES OR VACATES THE FINDING THAT, ON OR AFTER THE EFFECTIVE  
31 DATE OF THIS SUBSECTION (2.5), THE CERTIFICATE HOLDER KNOWINGLY  
32 MADE AN UNTRUTHFUL STATEMENT CONCERNING A MATERIAL FACT OR  
33 KNOWINGLY OMITTED A MATERIAL FACT ON AN OFFICIAL CRIMINAL  
34 JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR DURING AN  
35 INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE ADMINISTRATIVE  
36 INVESTIGATION, THE CERTIFICATE HOLDER MAY REQUEST REINSTATEMENT  
37 OF HIS OR HER CERTIFICATE BY PROVIDING DOCUMENTATION OF THE  
38 COURT'S RULING TO THE P.O.S.T. BOARD WITHIN FORTY-FIVE DAYS AFTER  
39 THE COURT'S RULING.

40 (g) IF A LAW ENFORCEMENT AGENCY IS NOTIFIED THAT A PEACE  
41 OFFICER WHO IS EMPLOYED OR WHO WAS EMPLOYED BY THE AGENCY IS

1 ALLEGED TO HAVE KNOWINGLY MADE AN UNTRUTHFUL STATEMENT  
2 CONCERNING A MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL  
3 FACT ON AN OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING  
4 UNDER OATH, OR DURING AN INTERNAL AFFAIRS INVESTIGATION OR  
5 COMPARABLE ADMINISTRATIVE INVESTIGATION, ON OR AFTER THE  
6 EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE AGENCY SHALL  
7 INVESTIGATE THE ALLEGATION UNLESS THE ACCUSED PEACE OFFICER HAS  
8 NOT BEEN EMPLOYED BY THE AGENCY FOR AT LEAST SIX MONTHS  
9 PRECEDING THE DATE UPON WHICH THE AGENCY IS NOTIFIED OF THE  
10 ALLEGATION, IN WHICH CASE THE AGENCY MAY INVESTIGATE THE  
11 ALLEGATION.

12 (h) NOTHING IN THIS SECTION PROHIBITS THE LAWFUL USE OF  
13 DECEPTION OR OMISSION OF FACTS BY A PEACE OFFICER WHILE HE OR SHE  
14 IS CONDUCTING AN INVESTIGATION OF CRIMINAL ACTIVITY."

15 Page 3, strike lines 1 through 6.

\*\* \*\* \*\* \*\* \*\*