

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-0079.01 Richard Sweetman x4333

HOUSE BILL 18-1076

HOUSE SPONSORSHIP

Salazar,

SENATE SPONSORSHIP

(None),

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE P.O.S.T. BOARD REVOKING THE CERTIFICATION OF**
102 **A PEACE OFFICER WHO IS FOUND TO HAVE MADE AN**
103 **UNTRUTHFUL STATEMENT, AND, IN CONNECTION THEREWITH,**
104 **MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires the peace officers standards and training board (P.O.S.T. board), which certifies peace officers, to revoke the certification of a peace officer if:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 24, 2018

- ! The P.O.S.T. board receives notification from a law enforcement agency that employs or employed the peace officer that the peace officer made an untruthful statement or omitted a material fact on an official law enforcement document or while testifying at an official judicial proceeding or during an internal affairs investigation; and
- ! Either the law enforcement agency or a panel of the P.O.S.T. board reached a determination on the matter after completing an administrative process.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-31-305, **add** (2.5)
3 as follows:

4 **24-31-305. Certification - issuance - renewal - revocation -**
5 **report.** (2.5) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2)
6 OF THIS SECTION, THE P.O.S.T. BOARD SHALL REVOKE A CERTIFICATION
7 ISSUED TO A PERSON PURSUANT TO SUBSECTION (1) OR (1.3) OF THIS
8 SECTION OR SECTION 24-31-308 IF:

9 (I) THE LAW ENFORCEMENT AGENCY THAT EMPLOYS OR EMPLOYED
10 THE CERTIFICATE HOLDER NOTIFIES THE P.O.S.T. BOARD THAT, ON OR
11 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE CERTIFICATE
12 HOLDER KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING A
13 MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON A
14 CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR DURING
15 AN INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE ADMINISTRATIVE
16 INVESTIGATION; AND

17 (II) THE LAW ENFORCEMENT AGENCY CERTIFIES THAT:

18 (A) IT COMPLETED AN ADMINISTRATIVE PROCESS DEFINED BY A
19 PUBLISHED POLICY OF THE LAW ENFORCEMENT AGENCY, WHICH POLICY
20 WAS IN EFFECT AT THE TIME THAT THE ALLEGED UNTRUTHFUL STATEMENT

1 CONCERNING A MATERIAL FACT OR KNOWING OMISSION OF MATERIAL FACT
2 OCCURRED; AND

3 (B) THROUGH THAT PROCESS, THE LAW ENFORCEMENT AGENCY
4 DETERMINED BY A CLEAR AND CONVINCING STANDARD OF THE EVIDENCE
5 THAT, ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE
6 OFFICER KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING A
7 MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON AN
8 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR
9 DURING AN INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE
10 ADMINISTRATIVE INVESTIGATION.

11 (b) A LAW ENFORCEMENT AGENCY THAT MAKES A DETERMINATION
12 DESCRIBED IN SUBSECTION (2.5)(a)(II) OF THIS SECTION SHALL REPORT
13 SUCH FACT TO THE P.O.S.T. BOARD ON A FORM THAT IS PRESCRIBED BY
14 THE P.O.S.T. BOARD.

15 (c) IF A CERTIFICATE HOLDER WHO IS THE SUBJECT OF AN
16 INVESTIGATION DESCRIBED IN SUBSECTION (2.5)(a)(II) OF THIS SECTION
17 RESIGNS OR REFUSES TO COOPERATE IN THE INVESTIGATION, THE
18 INVESTIGATING LAW ENFORCEMENT AGENCY SHALL COMPLETE THE
19 INVESTIGATION WITH OR WITHOUT THE SUBJECT'S PARTICIPATION. IF THE
20 RESULTS OF THE INVESTIGATION DEMONSTRATE BY A CLEAR AND
21 CONVINCING STANDARD OF THE EVIDENCE THAT, ON OR AFTER THE
22 EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE CERTIFICATE HOLDER
23 KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING A
24 MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON AN
25 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR
26 DURING AN INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE
27 ADMINISTRATIVE INVESTIGATION, THE LAW ENFORCEMENT AGENCY SHALL

1 NOTIFY THE P.O.S.T. BOARD AND REQUEST REVOCATION OF THE
2 CERTIFICATE HOLDER'S CERTIFICATION ON A FORM PRESCRIBED BY THE
3 P.O.S.T. BOARD.

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

7 (e) THE RECORDS OF ANY LAW ENFORCEMENT AGENCY THAT ARE
8 SUBMITTED FOR REVIEW BY THE P.O.S.T. BOARD FOR THE PURPOSES OF
9 THIS SUBSECTION (2.5) REMAIN THE PROPERTY OF THE REPORTING LAW
10 ENFORCEMENT AGENCY AND ARE NOT SUBJECT TO PUBLIC RELEASE BY THE
11 P.O.S.T. BOARD.

12 (f) IF A CERTIFICATE HOLDER'S CERTIFICATE IS REVOKED
13 PURSUANT TO THIS SECTION AND A COURT OF RECORD SUBSEQUENTLY
14 REVERSES OR VACATES THE FINDING THAT, ON OR AFTER THE EFFECTIVE
15 DATE OF THIS SUBSECTION (2.5), THE CERTIFICATE HOLDER KNOWINGLY
16 MADE AN UNTRUTHFUL STATEMENT CONCERNING A MATERIAL FACT OR
17 KNOWINGLY OMITTED A MATERIAL FACT ON AN OFFICIAL CRIMINAL
18 JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR DURING AN
19 INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE ADMINISTRATIVE
20 INVESTIGATION, THE CERTIFICATE HOLDER MAY REQUEST REINSTATEMENT
21 OF HIS OR HER CERTIFICATE BY PROVIDING DOCUMENTATION OF THE
22 COURT'S RULING TO THE P.O.S.T. BOARD WITHIN FORTY-FIVE DAYS AFTER
23 THE COURT'S RULING.

24 (g) IF A LAW ENFORCEMENT AGENCY IS NOTIFIED THAT A PEACE
25 OFFICER WHO IS EMPLOYED OR WHO WAS EMPLOYED BY THE AGENCY IS
26 ALLEGED TO HAVE KNOWINGLY MADE AN UNTRUTHFUL STATEMENT
27 CONCERNING A MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL

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

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

13 **SECTION 2. Appropriation.** For the 2018-19 state fiscal year,
14 \$40,692 is appropriated to the department of law. This appropriation is
15 from the P.O.S.T. board cash fund created in section 24-31-303 (2)(b),
16 C.R.S., and is based on an assumption that the department will require an
17 additional 0.6 FTE. To implement this act, the department may use this
18 appropriation for peace officers standards and training board support.

19 **SECTION 3. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2018 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.