

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.**

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:

! The P.O.S.T. board receives notification from a law enforcement agency that employs or employed the peace

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.

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
21 CONCERNING A MATERIAL FACT OR KNOWING OMISSION OF MATERIAL FACT
22 OCCURRED; AND

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

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

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

1 P.O.S.T. BOARD.

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

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

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

22 (g) IF A LAW ENFORCEMENT AGENCY IS NOTIFIED THAT A PEACE
23 OFFICER WHO IS EMPLOYED OR WHO WAS EMPLOYED BY THE AGENCY IS
24 ALLEGED TO HAVE KNOWINGLY MADE AN UNTRUTHFUL STATEMENT
25 CONCERNING A MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL
26 FACT ON AN OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING
27 UNDER OATH, OR DURING AN INTERNAL AFFAIRS INVESTIGATION OR

1 COMPARABLE ADMINISTRATIVE INVESTIGATION, ON OR AFTER THE
2 EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE AGENCY SHALL
3 INVESTIGATE THE ALLEGATION UNLESS THE ACCUSED PEACE OFFICER HAS
4 NOT BEEN EMPLOYED BY THE AGENCY FOR AT LEAST SIX MONTHS
5 PRECEDING THE DATE UPON WHICH THE AGENCY IS NOTIFIED OF THE
6 ALLEGATION, IN WHICH CASE THE AGENCY MAY INVESTIGATE THE
7 ALLEGATION.

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

11 **SECTION 2. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2018 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.