

Senate Bill 19-166
**POST Board Revoke Certification for
 Untruthful Statement**

Sens Fields and Gardner / Rep Roberts



**Colorado Association of
 Chiefs of Police**

- SB 166 addresses the permanent removal of known untruthful peace officers from the profession of law enforcement by decertifying them with the POST Board.
- SB 166 is important to maintaining public trust in Colorado law enforcement and to holding peace officers accountable for unethical behavior in critical areas of the criminal justice system.
- SB 166 addresses the making of knowingly untruthful statements about material facts or knowingly omitting material facts in three crucial areas of law enforcement:
 - Criminal Justice Records
 - Testimony in Court
 - Internal Affairs/Formal Administrative Processes
- The standard that would need to be met before a peace officer could be decertified is "Clear & Convincing".
- Most peace officers work for agencies with robust administrative processes. For those peace officers working in small agencies which might lack resources or sophisticated processes, a process has been established to ensure they are treated fairly.
- Below is the process that would be afforded all peace officers during a decertification process for untruthfulness:
 - The peace officer would have to be suspected on being untruthful in one of the three identified situations.
 - The peace officer would have to have an Administrative/Internal Affairs process provided them to determine to a clear and convincing standard that they knowingly made an untruthful statement of a material fact or omitted a material fact in one of the three specified areas.
 - The Administrative/Internal Affairs process would have to conform to a written policy of the department; which was in effect at the time of the alleged transgression.
 - The peace officer would need to have had access to or completed any internal appeal process offered by their agency before paperwork for decertification is submitted POST.
 - The chief executive of the agency would have to sign an affirmation under the penalty of perjury that the information being submitted to POST for the peace officer decertification is true and accurate to the best of their knowledge. (The chief executive of an agency would be risking criminal prosecution and their own decertification by POST for providing false information).
 - The peace officer would be offered the opportunity for a formal hearing with the POST Director or their designee before decertification.
 - The hearing with the POST Director would allow the peace officer to be represented by counsel, introduce evidence, and to question witnesses.
 - The peace officer would be able to appeal the POST Director decision to the full POST Board.
 - The peace officer could appeal the POST Board decision to the District Court.
 - The peace officer can appeal the District Court decision to the appellate courts.
- SB 166 provides public confidence that known unethical peace officers are removed permanently from the law enforcement profession in Colorado.
- Peace officers who committed the bad acts identified in this statute would not be allowed to move to other agencies, or simply resign from their current agency without professional consequences when their bad actions are discovered.

*For more information, Sandra Hagen Solin, Kutak Rock
Sandra.solin@kutakrock.com or 303.810.1914 (cell)*