

HB1076_L.008

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB18-1076 be amended as follows:

- 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 ADMINISTRATIVE INVESTIGATION; AND
9 (II) THE LAW ENFORCEMENT AGENCY CERTIFIES THAT:
10 (A) IT COMPLETED AN ADMINISTRATIVE PROCESS DEFINED BY A
11 PUBLISHED POLICY OF THE LAW ENFORCEMENT AGENCY, WHICH POLICY
12 WAS IN EFFECT AT THE TIME THAT THE ALLEGED UNTRUTHFUL STATEMENT
13 CONCERNING A MATERIAL FACT OR KNOWING OMISSION OF MATERIAL FACT
14 OCCURRED; AND
15 (B) THROUGH THAT PROCESS, THE LAW ENFORCEMENT AGENCY
16 DETERMINED BY A CLEAR AND CONVINCING STANDARD OF THE EVIDENCE
17 THAT, ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE
18 OFFICER KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING A
19 MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON AN
20 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR
21 DURING AN INTERNAL ADMINISTRATIVE INVESTIGATION.
22 (b) A LAW ENFORCEMENT AGENCY THAT MAKES A DETERMINATION
23 DESCRIBED IN SUBSECTION (2.5)(a)(II) OF THIS SECTION SHALL REPORT
24 SUCH FACT TO THE P.O.S.T. BOARD ON A FORM THAT IS PRESCRIBED BY
25 THE P.O.S.T. BOARD.
26 (c) IF A CERTIFICATE HOLDER WHO IS THE SUBJECT OF AN
27 INVESTIGATION DESCRIBED IN SUBSECTION (2.5)(a)(II) OF THIS SECTION
28 RESIGNS OR REFUSES TO COOPERATE IN THE INVESTIGATION, THE
29 INVESTIGATING LAW ENFORCEMENT AGENCY SHALL COMPLETE THE
30 INVESTIGATION WITH OR WITHOUT THE SUBJECT'S PARTICIPATION. IF THE
31 RESULTS OF THE INVESTIGATION DEMONSTRATE BY A CLEAR AND
32 CONVINCING STANDARD OF THE EVIDENCE THAT, ON OR AFTER THE
33 EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE CERTIFICATE HOLDER
34 KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING A
35 MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON AN
36 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR
37 DURING AN INTERNAL ADMINISTRATIVE INVESTIGATION, THE LAW
38 ENFORCEMENT AGENCY SHALL NOTIFY THE P.O.S.T. BOARD AND REQUEST
39 REVOCATION OF THE CERTIFICATE HOLDER'S CERTIFICATION ON A FORM
40 PRESCRIBED BY THE P.O.S.T. BOARD.
41 (d) A PERSON WHOSE P.O.S.T. CERTIFICATION IS REVOKED

1 PURSUANT TO THIS SUBSECTION (2.5) MAY APPEAL THE REVOCATION IN
2 ACCORDANCE WITH RULES OF THE P.O.S.T. BOARD.

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

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

19 (g) IF A LAW ENFORCEMENT AGENCY IS NOTIFIED THAT A PEACE
20 OFFICER WHO IS EMPLOYED OR WHO WAS EMPLOYED BY THE AGENCY IS
21 ALLEGED TO HAVE KNOWINGLY MADE AN UNTRUTHFUL STATEMENT
22 CONCERNING A MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL
23 FACT ON AN OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING
24 UNDER OATH, OR DURING AN INTERNAL ADMINISTRATIVE INVESTIGATION
25 ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE AGENCY
26 SHALL INVESTIGATE THE ALLEGATION UNLESS THE ACCUSED PEACE
27 OFFICER HAS NOT BEEN EMPLOYED BY THE AGENCY FOR AT LEAST SIX
28 MONTHS PRECEDING THE DATE UPON WHICH THE AGENCY IS NOTIFIED OF
29 THE ALLEGATION, IN WHICH CASE THE AGENCY MAY INVESTIGATE THE
30 ALLEGATION.

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

34 Page 3, strike lines 1 through 6.

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