

First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0869.01 Conrad Imel x2313

SENATE BILL 19-166

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SENATE SPONSORSHIP

Fields and Gardner,

HOUSE SPONSORSHIP

Roberts,

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Senate Committees  
Judiciary

House Committees

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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.

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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 knowingly made an untruthful statement concerning a material fact or omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or comparable administrative investigation; and

! The law enforcement agency certifies that it completed an administrative process defined by a published policy of the law enforcement agency and through that process, the law enforcement agency determined by a clear and convincing standard of the evidence that the officer knowingly made an untruthful statement concerning a material fact or knowingly omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or comparable administrative investigation.

The bill allows a person whose P.O.S.T. certification is revoked to appeal the revocation in accordance with rules of the P.O.S.T. board.

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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 (2.5) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS  
6 SECTION, THE P.O.S.T. BOARD SHALL REVOKE A CERTIFICATION ISSUED TO  
7 A PERSON PURSUANT TO SUBSECTION (1) OR (1.3) OF THIS SECTION OR  
8 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 AN  
14 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR  
15 DURING AN INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE  
16 ADMINISTRATIVE INVESTIGATION; AND

1 (II) THE LAW ENFORCEMENT AGENCY CERTIFIES THAT:

2 (A) IT COMPLETED AN ADMINISTRATIVE PROCESS DEFINED BY A  
3 PUBLISHED POLICY OF THE LAW ENFORCEMENT AGENCY, WHICH POLICY  
4 WAS IN EFFECT AT THE TIME THAT THE ALLEGED UNTRUTHFUL STATEMENT  
5 CONCERNING A MATERIAL FACT OR KNOWING OMISSION OF MATERIAL FACT  
6 OCCURRED; AND

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

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

19 (c) IF A CERTIFICATE HOLDER WHO IS THE SUBJECT OF AN  
20 INVESTIGATION DESCRIBED IN SUBSECTION (2.5)(a)(II) OF THIS SECTION  
21 RESIGNS OR REFUSES TO COOPERATE IN THE INVESTIGATION, THE  
22 INVESTIGATING LAW ENFORCEMENT AGENCY SHALL COMPLETE THE  
23 INVESTIGATION WITH OR WITHOUT THE SUBJECT'S PARTICIPATION. IF THE  
24 RESULTS OF THE INVESTIGATION DEMONSTRATE BY A CLEAR AND  
25 CONVINCING STANDARD OF THE EVIDENCE THAT, ON OR AFTER THE  
26 EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE CERTIFICATE HOLDER  
27 KNOWINGLY MADE AN UNTRUTHFUL STATEMENT CONCERNING A

1 MATERIAL FACT OR KNOWINGLY OMITTED A MATERIAL FACT ON AN  
2 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR  
3 DURING AN INTERNAL AFFAIRS INVESTIGATION OR COMPARABLE  
4 ADMINISTRATIVE INVESTIGATION, THE LAW ENFORCEMENT AGENCY SHALL  
5 NOTIFY THE P.O.S.T. BOARD AND REQUEST REVOCATION OF THE  
6 CERTIFICATE HOLDER'S CERTIFICATION ON A FORM PRESCRIBED BY THE  
7 P.O.S.T. BOARD.

8 (d) A CERTIFICATE HOLDER WHOSE P.O.S.T. CERTIFICATION IS  
9 REVOKED PURSUANT TO THIS SUBSECTION (2.5) MAY APPEAL THE  
10 REVOCATION IN ACCORDANCE WITH RULES OF THE P.O.S.T. BOARD.

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

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

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

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

17 **SECTION 2. Act subject to petition - effective date.** This act  
18 takes effect at 12:01 a.m. on the day following the expiration of the  
19 ninety-day period after final adjournment of the general assembly (August  
20 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
21 referendum petition is filed pursuant to section 1 (3) of article V of the  
22 state constitution against this act or an item, section, or part of this act  
23 within such period, then the act, item, section, or part will not take effect  
24 unless approved by the people at the general election to be held in  
25 November 2020 and, in such case, will take effect on the date of the  
26 official declaration of the vote thereon by the governor.