

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

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  
Appropriations

**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, AND, IN CONNECTION THEREWITH,**  
104             **MAKING AN APPROPRIATION.**

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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:

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.

! The P.O.S.T. board receives notification from a law enforcement agency that employs or employed the peace 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 **rules - definition.** (2.5) (a) NOTWITHSTANDING THE PROVISIONS OF  
6 SUBSECTION (2) OF THIS SECTION, THE P.O.S.T. BOARD SHALL REVOKE A  
7 CERTIFICATION ISSUED TO A PERSON PURSUANT TO SUBSECTION (1) OR  
8 (1.3) OF THIS 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 AN  
14 OFFICIAL CRIMINAL JUSTICE RECORD, WHILE TESTIFYING UNDER OATH, OR

1 DURING AN INTERNAL AFFAIRS INVESTIGATION OR ADMINISTRATIVE  
2 INVESTIGATION AND DISCIPLINARY PROCESS; AND

3 (II) THE LAW ENFORCEMENT AGENCY CERTIFIES THAT:

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

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

18 (C) THE CERTIFICATE HOLDER HAS ELECTED NOT TO EXERCISE, OR  
19 HAS EXHAUSTED, THE INTERNAL DISCIPLINARY APPEAL RIGHTS PROVIDED  
20 BY THE OFFICER'S EMPLOYER; AND

21 (III) THE P.O.S.T. BOARD HAS DETERMINED, AFTER CONDUCTING  
22 A HEARING AND APPEALS PROCESS PROVIDED PURSUANT TO RULES OF THE  
23 P.O.S.T. BOARD AND IN COMPLIANCE WITH SECTIONS 24-4-104 AND  
24 24-4-105, THAT THE CERTIFICATE HOLDER KNOWINGLY MADE AN  
25 UNTRUTHFUL STATEMENT CONCERNING A MATERIAL FACT OR KNOWINGLY  
26 OMITTED A MATERIAL FACT ON AN OFFICIAL CRIMINAL JUSTICE RECORD,  
27 WHILE TESTIFYING UNDER OATH, OR DURING AN INTERNAL AFFAIRS

1 INVESTIGATION OR ADMINISTRATIVE INVESTIGATION AND DISCIPLINARY  
2 PROCESS.

3 (b) A LAW ENFORCEMENT AGENCY THAT MAKES A DETERMINATION  
4 DESCRIBED IN SUBSECTION (2.5)(a)(II) OF THIS SECTION SHALL REPORT  
5 SUCH FACT TO THE P.O.S.T. BOARD ON A FORM THAT IS PRESCRIBED BY  
6 THE P.O.S.T. BOARD. THE FORM MUST REQUIRE THE OFFICIAL SUBMITTING  
7 THE FORM TO ATTEST, UNDER PENALTY OF PERJURY, THAT, TO THE BEST OF  
8 THE OFFICIAL'S KNOWLEDGE AND BELIEF, THE STATEMENTS ON THE FORM  
9 ARE TRUE, CORRECT, AND COMPLETE, AND THAT ANY FALSE STATEMENT,  
10 MISSTATEMENT, OR INACCURACY MAY RESULT IN REVOCATION OF THE  
11 OFFICIAL'S CERTIFICATION AS WELL AS CRIMINAL PROSECUTION.

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

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

(e) A PERSON WHO HAS HAD HIS OR HER P.O.S.T. CERTIFICATION REVOKED PURSUANT TO THIS SUBSECTION (2.5) MAY SEEK JUDICIAL REVIEW PURSUANT TO THE PROVISIONS OF SECTION 24-4-106.

(f) IF A CERTIFICATE HOLDER'S CERTIFICATE IS REVOKED PURSUANT TO THIS SECTION AND A COURT OF RECORD SUBSEQUENTLY REVERSES OR VACATES THE FINDING THAT, ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2.5), THE CERTIFICATE HOLDER 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 ADMINISTRATIVE INVESTIGATION AND DISCIPLINARY PROCESS, THE CERTIFICATE HOLDER MAY REQUEST REINSTATEMENT OF HIS OR HER CERTIFICATE BY PROVIDING DOCUMENTATION OF THE COURT'S RULING TO THE P.O.S.T. BOARD WITHIN FORTY-FIVE DAYS AFTER THE COURT'S RULING.

(g) IF A LAW ENFORCEMENT AGENCY IS NOTIFIED THAT A PEACE OFFICER WHO IS EMPLOYED OR WHO WAS EMPLOYED BY THE AGENCY IS ALLEGED TO HAVE 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

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

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

12 (i) FOR THE PURPOSES OF THIS SUBSECTION (2.5),  
13 "ADMINISTRATIVE INVESTIGATION AND DISCIPLINARY PROCESS" MEANS AN  
14 EMPLOYER'S FORMAL PROCESS OF INTERNAL CONTROL THAT ASSURES  
15 THAT AN ALLEGATION OF VIOLATION OF EMPLOYER RULES, POLICY,  
16 PROCEDURE, OR OTHER MISCONDUCT OR IMPROPER ACTIONS BY AN  
17 EMPLOYEE ARE SUBJECT TO A COMPLETE AND OBJECTIVE INVESTIGATION  
18 RESULTING IN FINDINGS OF FACT AND DISCIPLINARY ACTION FOR ANY  
19 SUBSTANTIATED VIOLATION.

20 (j) THE P.O.S.T. BOARD MAY PROMULGATE RULES FOR THE  
21 IMPLEMENTATION OF THIS SUBSECTION (2.5).

22 **SECTION 2. Appropriation.** For the 2019-20 state fiscal year,  
23 \$40,056 is appropriated to the department of law. This appropriation is  
24 from the P.O.S.T. board cash fund created in section 24-31-303 (2)(b),  
25 C.R.S., and is based on an assumption that the department will require an  
26 additional 0.6 FTE. To implement this act, the department may use this  
27 appropriation for peace officers standards and training board support.

1           **SECTION 3. Act subject to petition - effective date.** This act  
2 takes effect at 12:01 a.m. on the day following the expiration of the  
3 ninety-day period after final adjournment of the general assembly (August  
4 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a  
5 referendum petition is filed pursuant to section 1 (3) of article V of the  
6 state constitution against this act or an item, section, or part of this act  
7 within such period, then the act, item, section, or part will not take effect  
8 unless approved by the people at the general election to be held in  
9 November 2020 and, in such case, will take effect on the date of the  
10 official declaration of the vote thereon by the governor.