

2022 Regular Session

SENATE BILL NO. 182

BY SENATOR FIELDS

LAW ENFORCEMENT. Provides relative to revocation of P.O.S.T. certification. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:134(A)(3) and R.S. 40:2405(J)(2)(a) and to enact R.S.
3 14:134(A)(4) and R.S. 40:2405(J)(1)(c), relative to mandatory P.O.S.T. certification
4 revocation; to provide relative to malfeasance in office by public officers and
5 employees; to provide for a revocation hearing to determine whether a peace officer's
6 P.O.S.T. certification will be revoked; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:134(A)(3) is hereby amended and reenacted and R.S. 14:134(A)(4)
9 is hereby enacted to read as follows:

10 §134. Malfeasance in office

11 A. Malfeasance in office is committed when any public officer or public
12 employee shall:

13 * * *

14 (3) Knowingly permit any other public officer or public employee, under his
15 authority, to intentionally refuse or fail to perform any duty lawfully required of him,
16 or to perform any such duty in an unlawful manner; or

17 **(4) Willfully and knowingly subject any person to the deprivation of any**

1 right, privilege, or immunity secured or protected by the United States
2 Constitution and laws, if serious bodily injury or death results.

3 * * *

4 Section 2. R.S. 40:2405(J)(2)(a) is hereby amended and reenacted and R.S.
5 40:2405(J)(1)(c) is hereby enacted to read as follows:

6 §2405. Peace officer training requirements; reimbursement by peace officer

7 * * *

8 J.(1) Notwithstanding any provision of law to the contrary, the P.O.S.T.
9 certification of any qualified peace officer, whether employed full-time, part-time,
10 or reserve, shall be revoked upon the occurrence of any of the following conditions:

11 * * *

12 (c) There has been a criminal adjudication against the officer for
13 willfully depriving or conspiring to deprive another person of any right
14 protected by the constitution or laws of the United States while acting under
15 color of law.

16 (2) The Council on Peace Officer Standards and Training may conduct a
17 revocation hearing to determine whether the P.O.S.T. certification of any qualified
18 peace officer, whether employed full-time, part-time, or reserve, shall be revoked if
19 any of the following conditions occur:

20 ~~(a) The officer has been involuntarily terminated by his employing law~~
21 ~~enforcement agency for disciplinary reasons involving an adjudication of civil rights~~
22 ~~violations and the officer has exhausted all administrative remedies. The officer has~~
23 been terminated by his employing law enforcement agency, or allowed to retire
24 or resign, as a result of disciplinary action taken against the officer for any
25 conduct during the course and scope of employment that would constitute an
26 unauthorized use of force, and the officer has exhausted all administrative
27 remedies.

28 * * *

29 Section 3. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 effective on the day following such approval.

The original instrument was prepared by Leonore Heavey. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alan Miller.

DIGEST

SB 182 Engrossed

2022 Regular Session

Fields

Present law sets forth behavior by public officers and employees that is considered malfeasance in office.

Proposed law adds willfully and knowingly subjecting any person to the deprivation of any right, privilege, or immunity secured or protected by the U. S. Constitution and laws, if serious bodily injury or death results to the list of conduct that is malfeasance in office.

Present law provides for the mandatory removal of P.O.S.T. certification of any full-time, part-time, or reserve peace officer upon a conviction of malfeasance in office or conviction of an offense which results in the restriction of the officer's constitutional right to bear arms.

Proposed law retains present law mandatory P.O.S.T. certification revocation provisions and adds an additional mandatory revocation provision when a criminal adjudication against the officer for willfully depriving or conspiring to deprive another person of any right protected by the constitution or laws of the United States while acting under color of law.

Present law allows the P.O.S.T. Council to conduct a revocation hearing to determine if the officer's P.O.S.T. certification should be revoked under certain circumstances including when the officer has been involuntarily terminated by his employing law enforcement agency for disciplinary reasons involving an adjudication of civil rights violations.

Proposed law removes the officer's involuntary termination by his employing law enforcement agency for disciplinary reasons involving an adjudication of civil rights violations from the list of revocation offenses over which the P.O.S.T. Council has discretion.

Proposed law adds a condition in which the officer has been terminated by his employing law enforcement agency, or allowed to retire or resign, as a result of disciplinary action taken against the officer for any conduct during the course and scope of employment that would constitute an unauthorized use of force, and the officer has exhausted all administrative remedies to the list of revocation offenses over which the P.O.S.T. Council has discretion to conduct a revocation hearing.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:134(A)(3) and R.S. 40:2405(J)(2)(a); adds R.S. 14:134(A)(4) and R.S. 40:2405(J)(1)(c))

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Removes actions intentionally depriving another of any right protected under Constitution of La. while acting under the color of law from the list of conduct that is malfeasance in office.
2. Adds actions willfully and knowingly subjecting any person to the deprivation of any right, privilege, or immunity secured or protected by the U. S. Constitution and laws, if serious bodily injury or death results to the list of conduct that is malfeasance in office.
3. Removes circumstances where the officer has been terminated by his employing law enforcement agency, or allowed to retire or resign, as a result of disciplinary action taken against the officer for any conduct during the course and scope of employment that would constitute an unauthorized use of force and the officer has exhausted all administrative remedies from the list of occurrences in which a peace officer shall have his P.O.S.T. certification revoked.
4. Adds condition in which the officer has been terminated by his employing law enforcement agency, or allowed to retire or resign, as a result of disciplinary action taken against the officer for any conduct during the course and scope of employment that would constitute an unauthorized use of force, and the officer has exhausted all administrative remedies from the list of revocation offenses over which the Council on Peace Officer Standards and Training has discretion to conduct a revocation hearing.