

**Brief**

# Developments in Law Enforcement Officer Certification and Decertification

Updated February 17, 2023

**Related Topic:** [Civil and Criminal Justice](#)

Over the past two years, public interest and legislative action surrounding law enforcement officers has revolved around two main questions: how do we select and train the individuals that police our communities, and what happens if they break our trust? In this report, NCSL will review the evolving processes states use to certify law enforcement officers and explore state policies that address decertification.

NCSL's [Legislative Responses for Policing](#) bill tracking database was created in May 2020 in response to a surge in state legislation. Since then, NCSL has identified and tracked over 360 bills related to police officer certification or decertification. Initial responses to the murder of George Floyd at the end of 2020 often focused on specific use-of-force policies and the creation of statewide standards.

In 2021, legislation broadened in scope with states going deeper into policing policy to address the employment aspects of law enforcement, including officer recruitment and hiring procedures, the process and requirements for certification, and when and how decertification happens.

Nearly every state has a statutory process to [certify police officers](#), much like professional licensure processes for other occupations. However, some states have adopted administrative or regulatory processes instead. Similarly, state statutes can provide for [decertification](#), or states can address the matter administratively or through regulation.

States with existing statutory certification and decertification requirements were more likely to propose and enact changes to them, compared to states without either enacting one from scratch. Depending on the state and the preexisting statutory framework, changes states have enacted in the last three years have ranged from broad and sweeping to precise and technical.

Illinois, Massachusetts and New Jersey notably passed sweeping system-wide changes to state certification and decertification laws.

In 2020, Massachusetts enacted [MA S 2963](#), which created both statutory certification and decertification processes. Prior to the bill's passage, Massachusetts was one of just a few states without a statewide system. The legislation created a new Police Officer Standards and Training (POST) Commission tasked with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, or reprimand in the event of specified misconduct.

The bill also employed modern policy tools common in other licensed professions, including requiring officers renew their certification every three years, granting departments access to personnel

information such as prior conduct and training, and requiring the POST Commission to create a [public database](#) of certified officers, discipline and revocation orders.

Massachusetts also added mandatory decertification requirements. The POST Commission is required to revoke an officer's certification if they are convicted of a felony, obtained their certification through misrepresentation or fraud, or had a previous certification revoked by another jurisdiction, among others. The commission is authorized by law to revoke an officer's certification under a broader array of circumstances. These include convictions for misdemeanors, patterns of bias or discrimination, or repeatedly sustained internal affairs investigations.

In 2021, Illinois made [sweeping changes](#) to its law enforcement certification and decertification policies as well. Notably, the legislature empowered the Illinois Law Enforcement Training Standards Board to issue an emergency order of suspension if an officer is arrested or indicted on a felony charge. Under the new law, any convictions or guilty pleas to a felony or certain misdemeanors—including sexual crimes, domestic violence, and harassment—lead to the automatic decertification of an officer. The law also clearly defined law enforcement officer misconduct and made it a Class 3 felony.

On top of these changes, any sheriff, chief of police, or other employing agency in Illinois is required to report to the board any arrest, conviction, or guilty plea of an officer. Illinois also broadened the scope of criteria the board may use for the discretionary decertification of an officer to include: excessive use of force; failure to intervene; tampering with or concealing body camera evidence; committing perjury or knowingly giving false statements; and more.

New Jersey is the latest state to implement a decertification process, something nearly every state now has a mechanism to address. Before [NJ S 2742](#) was passed last year, police officers in the Garden State passively lost their certification if they were not employed by a law enforcement agency for three years. The bill changed this system to give the Police Training Commission (PTC) the power to actively decertify officers.

In the new model, the PTC may now suspend, revoke, or deny a license if an individual does not meet any standard or requirement prescribed by the commission. The denial of a license can extend to renewals as well. The law also requires the PTC to revoke an officer's license if they are convicted of an act of domestic violence, an offense that would preclude them from carrying a firearm, or a crime in any other state.

Massachusetts and New Jersey also included provisions mandating that state POST boards submit information to the National Decertification Index (NDI) on any decision to revoke an officer's certification. Nationally, participation in the NDI is voluntary and each state may opt in or out. Some states take an administrative approach and allow a state's POST board to choose whether to participate. However, as with Massachusetts and New Jersey, state legislatures are beginning to adopt a more hands-on role and codify their participation.

At least a [dozen states](#) updated existing statutory grounds for decertification. For example, Colorado passed [CO H 1250](#) in 2021 which both expanded the reasons for which an officer must be decertified by the state's POST board and more clearly defined each specific case. These include pleading guilty to an unlawful use of force that resulted in injury or death, an internal investigation determining the same, or

failing to intervene to prevent another officer's unlawful use of force. And in [Iowa](#), the legislature unanimously enacted changes to require the revocation of an officer's certification if they are found guilty of serious misconduct or quit or voluntarily leave while under investigation.

In Kentucky, [legislation](#) was enacted to greatly expand the definition of professional malfeasance. It now includes the unjustified use of excessive or deadly force, and engaging in sexual relationships with victims, witnesses, defendants, or informants in an ongoing case in which they are involved. It also encompasses intentional actions by an officer that interfere with the administration of justice, such as tampering with evidence, giving false testimony, or the intentional disclosure of confidential information that compromises the integrity of an investigation.

Not to be confused with malfeasance, professional nonfeasance was expanded to include failure to intervene when unlawful and unjustified excessive or deadly force is used, and the intentional failure to disclose exculpatory or impeachment evidence favorable to the defendant. Law enforcement officers in Kentucky may be decertified when an agency terminates an officer for either professional malfeasance or nonfeasance.

Statutory grounds for decertification were also bolstered to include termination from the military under other than honorable conditions and termination by an agency following a conviction for any offenses involving fraud, dishonesty, deceit, misrepresentation, physical violence, sexual abuse or crimes against a minor or family or household member. The legislation also clarified that decertification would be automatic in some instances including for conviction of a felony and willful falsification of information to obtain or maintain certification.

In [New Mexico](#), the legislature addressed the structure of the agency charged with overseeing certification and decertification, splitting apart its Law Enforcement Academy Board. After the passage of NM H 68, two new boards were created in its place—one specifically tasked with developing standards and training requirements for officers, the other in charge of granting, denying, suspending or revoking officer certification.

Another common technical approach states are taking is to specify *in statute* that officers must complete specific trainings or minimum hours of training, pass a background check or cross-reference against the NDI, or not be under investigation or guilty of crimes in other jurisdictions. By enumerating the thresholds officers must meet in their statutes, an overall trend of greater legislative interest in police accountability can be established.

For example, [Florida](#) and [New Hampshire](#) passed bills to either require background checks, establish a uniform checklist, or set procedures for police departments to provide employment records to other departments hiring their officers.

Similarly, [Arkansas](#), [Indiana](#), and [Oklahoma](#) all enacted statutory provisions to require trainings on officers' duty to intervene, sexual assault response and crisis intervention respectively. Each bill, once enacted, provided statewide guidance that clarified and standardized administrative procedures for hiring and retaining certified police officers.

Recruitment and retention of law enforcement officers, similar to other public sector occupations, has become a priority given the rise in retirements and declining labor force participation. Common policy

solutions included financial incentives for law enforcement officers and other, more creative approaches.

For incentives, states have proposed higher education grants for students pursuing law enforcement degrees, or education repayment programs for first responders serving in disadvantaged communities. New York proposed making student loan forgiveness available for officers, conditioned on the size of their city and their residency in it.

Moving beyond education, some states have considered reimbursing law enforcement agencies which offer recruitment and retention bonuses. These typically come in the form of grants, and depending on the state, could be contingent on an agency's use of a civilian review board, community policing agreement or even body cameras.

Financial incentives for retired law enforcement officers have seen significant legislative movement recently. These typically involve allowing them to work again without incurring a penalty on their pension.

Moving beyond financial strategies, some states have been making moves to allow more people to serve as police officers in more spaces.

Oklahoma [enacted a law](#) to allow its Attorney General to cross-deputize law enforcement officers to work in multiple jurisdictions. However, liability for the officer would remain with the agency that is their primary employer.

Tennessee's legislature enacted changes to who can become a police officer. Previously, if a non-citizen wanted to become a police officer, they needed to have served in the U.S. military first. Now, any permanent legal resident can become a police officer *without* having served in the military, provided they apply for citizenship within six years of becoming a police officer.

All told, police officer certification and decertification legislation since 2020 has trended toward four key areas:

- Standardizing or establishing certification and decertification procedures.
- Expanding statutory guidance on when decertification can or must be pursued.
- Requiring certification renewal procedures that include ongoing training.
- And, when needed, changing statutory frameworks entirely to allow greater transparency of these processes.

As states focus on implementing their newly enacted policies, the conversation around these topics will continue. Expect future legislative sessions to show how states attempt to resolve these challenges and replicate their successes.

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The Legislator Police Academy is a year-long peer-training opportunity designed to support state legislators interested in policy topics related to police accountability. This program includes two in-person meetings with additional virtual opportunities. The in-person kickoff meeting was held Oct. 6-7, 2022 in Denver, with a second in-person meeting scheduled for September 2023. Throughout the course of this year-long program participants have had opportunities to hear from NCSL experts providing background research, testimony and in state technical-assistance.

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