

**September 2009 Commission Meeting  
Proposed Orders  
Executive Summary**

**These proposed orders will have an effective date of January 14, 2010.**

**10-01-217.21 Firearms Proficiency Requirements**

Subsection (a) is amended to require an agency that employs or appoints one officer to qualify at least once per year. Subsection (c)(3) is amended for clarification.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.355 Continuing Demonstration of Weapons Proficiency from Senate Bill 1303.

**10-02-221.11 Mental Health Officer Proficiency**

Subsection (a) is amended to include eligibility to individuals licensed as county jailers. Subsection (a)(7) is amended to reflect the correct title of the required training course.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.404 Certification of Officers for Mental Health Assignments from House Bill 2093.

**10-03-211.3 Public Information**

Subsection (b)(2) is amend to include the Commission's jurisdictional complaint process.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.202 from House Bill 3389, Section 9.

**10-04-211.20 Forms and Applications**

Subsection (a) is added to incorporate electronic submission of documents. The remaining subsections have been re-lettered.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.153 from House Bill 3389, Section 5.

**10-05-211.26 Law Enforcement Agency Audits (New rule)**

Subsection (a) requires the Commission to audit all law enforcement agencies at least once every five years. Subsection (b) identifies the documents to be reviewed during an audit. Subsection (c) identifies parties that will be notified of the audit results. Subsection (d) addresses the correction of deficiencies.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.162 from House Bill 3389, Section 7.

**10-06-211.27 Reporting Responsibilities of Individuals (Repeal and New)**

The section proposed for repeal addresses the reporting requirements of individuals. The proposed repeal of and new rule would identify the reporting requirements for individuals already licensed and those awaiting licensure. These requirements include: name and address changes; arrests, charges or indictments; final disposition of criminal actions; military separations and an effective date.

**September 2009 Commission Meeting  
Proposed Orders  
Executive Summary**

These changes are necessary to incorporate the changes to Texas Occupations Code §1701.307 from House Bill 2799.

**10-07-211.29 Responsibilities of Agency Chief Administrators**

Subsection (b) adds the reporting requirements of incident-based data collected for racial profiling. The following subsections were re-lettered due to the addition.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.164 from House Bill 3389, Section 8.

**10-08-215.13 Risk Assessment**

Subsection (a) is amended to reflect the terminology change. Subsection (a1-12) is amended for renumbering. Subsection (b) is amended to reflect the terminology change. Subsection (b1-12) is amended for renumbering. Subsection (c) is amended to reflect the terminology change. Subsection (c1-12) is amended for renumbering. Subsection (d) is amended for grammatical change. Subsection (e) is added to include a timeline and procedure for tracking a training provider's progress toward compliance. Subsection (g) is amended to reflect the terminology change.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.254 from House Bill 3389, Section 13.

**10-09-217.7 Reporting the Appointment and Termination of a Licensee**

Subsection (a) is amended to allow for the electronic submission of requests. Subsection (a)(1) is amended to allow for the electronic submission of requests. Subsection (a)(2) is amended to allow for the electronic submission of requests. Subsection (b) is added to identify the verification requirements. The following subsections were re-lettered as a result. Subsection (f)(4) is amended for a grammatical change.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.451 from House Bill 3389, Section 19.

**10-10-217.8 Contesting an Employment Termination Report**

Subsection (a) is amended to clarify a reference to another rule. Subsection (d) is amended to reflect a procedural change. Subsection (e) is amended to identify the commission is not a party to these contested cases.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.4525 from House Bill 3389, Section 20.

**10-11-217.11 Legislatively Required Continuing Education for Licensees (Repeal and New)**

The section proposed for repeal addresses the continuing education requirements of licensees. The proposed repeal of and new rule would identify the continuing education requirements for individuals licensed as peace officers, county jailers, and reserves. These requirements include: changes to the laws of this state and of the United States

**September 2009 Commission Meeting  
Proposed Orders  
Executive Summary**

pertaining to peace officers; civil rights, racial sensitivity, and cultural diversity; de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; and unless determined by the agency head to be inconsistent with the officer's assigned duties: the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; issues concerning sex offender characteristics, and effective date.

These changes are necessary to incorporate the changes to Texas Occupations Code §1701.351 from House Bill 3389, Sections 15 and 16. Additional amendments are necessary to incorporate the changes to Texas Occupations Code §1701.351 from House Bill 4009, Section 5.

**10-12-221.3 Peace Officer Proficiency**

Subsection (a)(2) is amended to incorporate the course requirements for Basic Peace Officer certificates. Subsection (b)(2) is amended for a grammatical change. Subsection (b)(3) is amended to incorporate the course requirements for Intermediate Peace Officer certificates. Subsection (c)(2) is amended to incorporate the course requirements for Advanced Peace Officer certificates. Subsection (c)(3) is amended for a grammatical change.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.402 from House Bill 3389, Section 17 and House Bill 4009, Section 6.

**10-13-223.1 License Action and Notification**

Subsection (a) is amended to identify violations by a licensee that the commission may take action on.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.501 from House Bill 3389, Section 22.

**10-14-223.2 Administrative Penalties (New rule)**

Subsection (a) is added to identify that law enforcement or governmental agencies are subject to an administrative penalty. Subsection (b) is added to identify notification requirements of an administrative penalty. Subsection (c) is added to identify the criteria used to determine administrative penalties.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.507 from House Bill 3389, Section 23.

**10-15-223.15 Suspension of License**

Subsection (a)(3) is amended to identify convictions that would cause the commission to take action against a licensee. Subsection (a)(4) is amended to identify court ordered community supervision situations that would cause the commission to take action against a licensee.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.1524 from House Bill 3389, Section 7.

**September 2009 Commission Meeting  
Proposed Orders  
Executive Summary**

**10-16-221.1 Proficiency Certificate Requirements**

Subsection (a) is added to clarify proficiency certificates issued by the commission. Subsection (b) is amended to include the Firearms Proficiency for Juvenile Probation officers. Subsection (c) is amended to identify the items that cause an application to be refused. Subsection (d) is amended to allow for cancelation of unqualified certificates. Subsection (e) is amended to allow for cancelation of false applications. Subsection (f) is amended to specify that academic degrees must be from an accredited college or university.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.507 from House Bill 1237.

**10-17-211.16 Establishment of an Appointing Entity (New rule)**

Subsection (a) identifies the effective date for law enforcement agency applications. Subsection (b) identifies the specific information required for a law enforcement agency reporting number. Subsection (c) identifies the requirements for correctional facilities. Subsection (d) identifies the requirements for consolidated emergency telecommunications centers. Subsection (e) identifies the requirements for probation or parole departments.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.163 from House Bill 3389, Section 7.

**10-18-221.35 Firearms Proficiency for Juvenile Probation Officers (New rule)**

Subsection (a) identifies the requirements for obtaining this proficiency certificate. Subsection (b) identifies the weapons proficiency requirements for juvenile probation officers. Subsection (c) identifies the expiration date for certificates issued under this section and stipulates requirements for renewal of the certificate for juvenile probation officers.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.507 from House Bill 1237.

## Proposed Order 10-01-217.21 Firearms Proficiency Requirements

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §217.21, Firearms Proficiency Requirements. Subsection (a) is amended to require an agency that employs or appoints one officer to qualify at least once per year. Subsection (c)(3) is amended for clarification. Subsection (f) is amended to reflect the effective date of the changes.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.355 Continuing Demonstration of Weapons Proficiency from Senate Bill 1303.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there may be an effect on state or local governments as a result of administering this section as agencies that were not previously required to qualify may now have to buy qualification ammunition.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that all law enforcement agencies will have firearms qualification requirements.

The Commission has also determined that there may be a positive economic impact for small businesses. With more agencies qualifying, those businesses offering ammunition or firearms range time may see an increase in business.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.355 Continuing Demonstration of Weapons Proficiency.

No other code, article, or statute is affected by this proposal.

### **Rule Draft:**

#### **§217.21. Firearms Proficiency Requirements.**

- (a) Each agency or entity that employs at least one [two] peace officer [officers] shall:
- (1) require each peace officer that it employs to successfully complete the current firearms proficiency requirements at least once each year;
  - (2) designate a firearms proficiency officer to be responsible for the documentation of annual firearms proficiency. The documentation for each officer shall include:

## Proposed Order 10-01-217.21 Firearms Proficiency Requirements

- (A) date of qualification;
  - (B) identification of officer;
  - (C) firearm manufacturer, model;
  - (D) results of qualifying; and
  - (E) course(s) of fire.
- (3) keep on file and in a format readily accessible to the commission a copy of all records of this proficiency.
- (b) The annual firearms proficiency requirements shall include:
- (1) an external inspection by the proficiency officer, range officer, firearms instructor, or gunsmith to determine the safety and functioning of the weapon(s);
  - (2) a proficiency demonstration in the care and cleaning of the weapon(s) used; and
  - (3) a course of fire that meets or exceeds the minimum standards.
- (c) The minimum standards for the annual firearms proficiency course of fire shall be:
- (1) handguns - a minimum of 50 rounds, including at least five rounds of duty ammunition, fired at ranges from point-blank to at least 15 yards with at least 20 rounds at or beyond seven yards, including at least one timed reload;
  - (2) shotguns - a minimum of five rounds of duty ammunition fired at a range of at least 15 yards;
  - (3) precision rifles - a minimum of 20 rounds of duty ammunition fired at a range of at least 100 yards; however, an agency may, in its discretion, allow a range of less than 100 yards but not less than 50 yards if the minimum passing percentage is raised to 90;
  - (4) patrol rifles - a minimum of 30 rounds of duty ammunition fired at a range of at least 50 yards, including at least one timed reload; however, an agency may, in its discretion, allow a range of less than 50 yards but not less than 10 yards if the minimum passing percentage is raised to 90;
  - (5) fully automatic weapons - a minimum of 30 rounds of duty ammunition fired at ranges from seven to at least 10 yards, including at least one timed reload, with at least 25 rounds fired in full automatic (short bursts of two or three rounds), and at least five rounds fired semi-automatic, if possible with the weapon.
- (d) The minimum passing percentage shall be 70 for each firearm.
- (e) The executive director may, upon written agency request, waive a peace officer's demonstration of weapons proficiency based on a determination that the requirement causes a hardship.
- (f) The effective date of this section is January 14, 2010. [June 1, 2004.]

### **Current Rule:**

#### **§217.21. Firearms Proficiency Requirements.**

- (a) Each agency or entity that employs at least two peace officers shall:
- (1) require each peace officer that it employs to successfully complete the current firearms proficiency requirements at least once each year;
  - (2) designate a firearms proficiency officer to be responsible for the documentation of annual firearms proficiency. The documentation for each officer shall include:
    - (A) date of qualification;
    - (B) identification of officer;
    - (C) firearm manufacturer, model;
    - (D) results of qualifying; and
    - (E) course(s) of fire.
  - (3) keep on file and in a format readily accessible to the commission a copy of all records of this proficiency.
- (b) The annual firearms proficiency requirements shall include:
- (1) an external inspection by the proficiency officer, range officer, firearms instructor, or gunsmith to determine the safety and functioning of the weapon(s);
  - (2) a proficiency demonstration in the care and cleaning of the weapon(s) used; and

## Proposed Order 10-01-217.21 Firearms Proficiency Requirements

- (3) a course of fire that meets or exceeds the minimum standards.
- (c) The minimum standards for the annual firearms proficiency course of fire shall be:
  - (1) handguns - a minimum of 50 rounds, including at least five rounds of duty ammunition, fired at ranges from point-blank to at least 15 yards with at least 20 rounds at or beyond seven yards, including at least one timed reload;
  - (2) shotguns - a minimum of five rounds of duty ammunition fired at a range of at least 15 yards;
  - (3) rifles - a minimum of 20 rounds of duty ammunition fired at a range of at least 100 yards; however, an agency may, in its discretion, allow a range of less than 100 yards but not less than 50 yards if the minimum passing percentage is raised to 90;
  - (4) patrol rifles - a minimum of 30 rounds of duty ammunition fired at a range of at least 50 yards, including at least one timed reload; however, an agency may, in its discretion, allow a range of less than 50 yards but not less than 10 yards if the minimum passing percentage is raised to 90;
  - (5) fully automatic weapons - a minimum of 30 rounds of duty ammunition fired at ranges from seven to at least 10 yards, including at least one timed reload, with at least 25 rounds fired in full automatic (short bursts of two or three rounds), and at least five rounds fired semi-automatic, if possible with the weapon.
- (d) The minimum passing percentage shall be 70 for each firearm.
- (e) The executive director may, upon written agency request, waive a peace officer's demonstration of weapons proficiency based on a determination that the requirement causes a hardship.
- (f) The effective date of this section is June 1, 2004.

## **Proposed Order 10-02-221.11 Mental Health Officer Proficiency**

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §221.11, Mental Health Officer Proficiency. Subsection (a) is amended to include eligibility to individuals licensed as county jailers. Subsection (a)(7) is amended to reflect the correct title of the required training course. Subsection (b) is amended to reflect the effective date of the changes.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.404 Certification of Officers for Mental Health Assignments from House Bill 2093.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there could be an effect on state or local governments as a result of administering this section. The demand for the training course could increase now that county jailers are eligible for this certificate.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by adding county jailers to the list of individuals eligible for this certificate.

The Commission has also determined that there may be a positive economic impact for small businesses. With more people eligible for certification, those businesses offering mental health training courses may see an increase in business.

The Commission has determined that there will be a monetary and time cost to the individual to achieve this proficiency certificate, however there will be a positive benefit for the individual and the public by allowing more individuals to receive training about mental health issues.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.404 Certification of Officers for Mental Health Assignments.

No other code, article, or statute is affected by this proposal.

### **Rule Draft:**

**§221.11. Mental Health Officer Proficiency.**



## Proposed Order 10-02-221.11 Mental Health Officer Proficiency

(a) To qualify for a mental health officer proficiency certificate, an applicant must meet the following requirements:

- (1) currently appointed as a peace officer, county jailer, or justice of the peace;
- (2) at least two years experience as a peace officer, county jailer, or justice of the peace;
- (3) if not currently a commissioned peace officer or county jailer, an applicant must meet the current enrollment standards;
- (4) if an applicant is a commissioned peace officer or county jailer, an applicant must not ever have had a license or certificate issued by the commission suspended or revoked;
- (5) if an applicant is a commissioned peace officer or county jailer, an applicant must have met the continuing education requirements for the previous training cycle;
- (6) successful completion of a training course in emergency first aid and lifesaving techniques (Red Cross or equivalent); and
- (7) successful completion of the current mental health [peace] officer training course and pass the approved examination for mental health officer proficiency.

(b) The effective date of this section is January 14, 2010. [March 1, 2001.]

### **Current Rule:**

#### **§221.11. Mental Health Officer Proficiency.**

(a) To qualify for a mental health officer proficiency certificate, an applicant must meet the following requirements:

- (1) currently appointed as a peace officer or justice of the peace;
- (2) at least two years experience as a peace officer or justice of the peace;
- (3) if not currently a commissioned peace officer, an applicant must meet the current enrollment standards;
- (4) if an applicant is a commissioned peace officer, an applicant must not ever have had a license or certificate issued by the commission suspended or revoked;
- (5) if an applicant is a commissioned peace officer, an applicant must have met the continuing education requirements for the previous training cycle;
- (6) successful completion of a training course in emergency first aid and lifesaving techniques (Red Cross or equivalent); and
- (7) successful completion of the current mental health peace officer training course and pass the approved examination for mental health officer proficiency.

(b) The effective date of this section is March 1, 2001.

## Proposed Order 10-03-211.3 Public Information

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §211.3, Public Information. Subsection (b)(2) is amended to include the Commission's jurisdictional complaint process. Subsection (d) is amended to reflect the effective date of the changes.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.202 from House Bill 3389, Section 9.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that the Commission's jurisdictional complaint process is identified by rule and available for public inspection.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, as a result of the proposed section. The Commission has determined that for each year of the first five years the section as proposed will be in effect, there may be a cost to individuals who file a jurisdictional complaint and desire copies of the jurisdictional complaint process, as a result of the proposed section.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.202 Complaints.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **§211.3. Public Information.**

- (a) All commission rules are published in the Texas Register as they are proposed and adopted.
- (b) The commission will index, maintain, and make available for public inspection at the Austin headquarters a copy of:
  - (1) the current rules;

## Proposed Order 10-03-211.3 Public Information

- (2) all interpretive memoranda, policies, and procedures; and
  - (3) all final orders, decisions, and opinions of the commission.
- (c) Members of the public may obtain:
- (1) copies of the rules and other documents published by the commission at the cost recovery rate established in the fee schedule for printed documents[. The current cost schedules are], which is available upon request from the commission;
  - (2) the rules and many other documents published by the commission are also available free of charge on the commission website: [www.tcleose.state.tx.us](http://www.tcleose.state.tx.us); [and]
  - (3) unpublished materials available under the Public Information Act at the rate established by the General Services Commission for such materials[.];and
  - (4) the jurisdictional complaint process, including:
    - (1) complaint intake;
    - (2) investigation;
    - (3) adjudication and relevant hearings;
    - (4) appeals;
    - (5) the imposition of sanctions; and
    - (6) public disclosure.
- (d) The effective date of this section is January 14, 2010. [June 1, 2004.]

### **Current Rule**

#### **§211.3. Public Information.**

- (a) All commission rules are published in the Texas Register as they are proposed and adopted.
  - (b) The commission will index, maintain, and make available for public inspection at the Austin headquarters a copy of:
    - (1) the current rules;
    - (2) all interpretive memoranda, policies, and procedures; and
    - (3) all final orders, decisions, and opinions of the commission.
- (c) Members of the public may obtain:
- (1) copies of the rules and other documents published by the commission at the cost recovery rate established in the fee schedule for printed documents. The current cost schedules are available upon request from the commission;
  - (2) the rules and many other documents published by the commission are also available free of charge on the commission website: [www.tcleose.state.tx.us](http://www.tcleose.state.tx.us); and
  - (3) unpublished materials available under the Public Information Act at the rate established by the General Services Commission for such materials.
- (d) The effective date of this section is June 1, 2004.

## Proposed Order 10-04-211.19 Forms and Applications

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §211.19, Forms and Applications. Subsection (a) is added to incorporate electronic submission of documents. The remaining subsections have been re-lettered. Subsection (h) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.153 from House Bill 3389, Section 5.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by utilizing an electronic reporting system that will improve the efficiency in updating information reported to the agency and providing current and accurate information to the public.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.1523 Electronic Submission of Forms, Data, and Documents.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **§211.19. Forms and Applications.**

(a) Applications, forms, data, and documents required by the commission shall be submitted electronically if an electronic method has been established for the form, data, or document.

(b)[(a)] For [On] applications or other forms required by the commission, the applicant or the individual on whose behalf the form is being submitted is responsible for reviewing the entire document and any attachments to attest to the accuracy and truthfulness of all information on and attached to the document.

## Proposed Order 10-04-211.19 Forms and Applications

(c)[(b)] A person who fails to comply with the standards set forth in these rules shall not accept the issuance of a license and shall not accept any appointment.

(d)[(c)] If an application is found to be false or untrue, any license or certificate issued to the applicant by the commission will be subject to cancellation and recall.

(e)[(d)] Agencies must keep on file and in a format readily accessible to the commission a copy of the documentation required by the commission. If the form or application is submitted via TCLEDDS, the agency must keep on file, and in a format readily accessible to the commission, a signed and dated printout of the electronically submitted form or application.

(f)[(e)] An agency must retain required records for a minimum of five years after the licensee's termination date with that agency.

(g)[(f)] An agency must report to the commission any failure to appoint an individual in the reported capacity within 30 days of the reported date of appointment. Such report must be made in the currently prescribed commission format for termination.

(h)[(g)] The effective date of this section is January 14, 2010. [March 1, 2008.]

### **Current Rule**

#### **§211.19. Forms and Applications.**

(a) On applications or other forms required by the commission, the applicant or the individual on whose behalf the form is being submitted is responsible for reviewing the entire document and any attachments to attest to the accuracy and truthfulness of all information on and attached to the document.

(b) A person who fails to comply with the standards set forth in these rules shall not accept the issuance of a license and shall not accept any appointment.

(c) If an application is found to be false or untrue, any license or certificate issued to the applicant by the commission will be subject to cancellation and recall.

(d) Agencies must keep on file and in a format readily accessible to the commission a copy of the documentation required by the commission. If the form or application is submitted via TCLEDDS, the agency must keep on file, and in a format readily accessible to the commission, a signed and dated printout of the electronically submitted form or application.

(e) An agency must retain required records for a minimum of five years after the licensee's termination date with that agency.

(f) An agency must report to the commission any failure to appoint an individual in the reported capacity within 30 days of the reported date of appointment. Such report must be made in the currently prescribed commission format for termination.

(g) The effective date of this section is March 1, 2008.

## Proposed Order 10-05-211.26 Law Enforcement Agency Audits

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code by adding §211.26, Law Enforcement Agency Audits. Subsection (a) requires the Commission to audit all law enforcement agencies at least once every five years. Subsection (b) identifies the documents to be reviewed during an audit. Subsection (c) identifies parties that will be notified of the audit results. Subsection (d) addresses the correction of deficiencies. Subsection (f) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.162 from House Bill 3389, Section 7.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that all law enforcement agencies are audited.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, 1701.162 Records and Audit Requirements.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **§211.26 Law Enforcement Agency Audits**

(a) All law enforcement agencies shall be audited at least once every five years. Agencies with deficiencies will be evaluated more frequently, as determined by the commission.

(b) The commission may use the following information in auditing an agency:

(1) commission records;

## Proposed Order 10-05-211.26 Law Enforcement Agency Audits

(2) history of previous violations;

(3) reports from past audits;

(4) on-site audits;

(5) reports and complaints from licensees, other law enforcement agencies, and citizens;  
and

(6) observations by commission staff.

(c) The results of the audit will be forwarded to the chief administrator and governing body.

(d) If deficiencies are identified, the chief administrator must report to the commission in writing within 30 days what steps are being taken to correct deficiencies and on what date they expect to be in compliance.

(e) The commission may impose administrative penalties and/or take disciplinary action.

(f) The effective date of this section is January 14, 2010.

## **Proposed Order 10-06-211.27 Reporting Responsibilities of Individuals**

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes the repeal of and new Title 37, Texas Administrative Code §211.27, Reporting Responsibilities of Individuals. The section proposed for repeal addresses the reporting requirements of individuals. The proposed repeal of and new rule would identify the reporting requirements for individuals already licensed and those awaiting licensure. These requirements include: name and address changes; arrests, charges or indictments; final disposition of criminal actions; military separations and an effective date..

The proposed action would repeal the current requirements from rule and specify the reporting requirements for individuals.

Current §211.27, proposed for repeal, describes the reporting requirements for licensees.

Proposed new §211.27, Reporting Responsibilities of Individuals, would clarify the individuals' reporting requirements. These changes are necessary to incorporate the changes to Texas Occupations Code §1701.307 from House Bill 2799.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that individuals eligible to be licensed are held to the same standard as licensees.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.3075 Qualified Applicant Awaiting Appointment.

No other code, article, or statute is affected by this proposal.



## Proposed Order 10-06-211.27 Reporting Responsibilities of Individuals

### Rule Draft

#### **§211.27. Reporting Responsibilities of Individuals.**

(a) An individual who either is a licensee or meets the requirements of Texas Occupations Code §1701.307(a) must report to the commission, in a format prescribed by the commission, within 30 days:

- (1) any name change;
- (2) a permanent mailing address other than an agency address;
- (3) all subsequent address changes;
- (4) an arrest, charge, or indictment for a criminal offense above the grade of Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, including the name of the arresting agency, the style, court, and cause number of the charge or indictment, if any;
- (5) the final disposition of the criminal action; and
- (6) all subsequent DD214s to the commission indicating any military discharge other than under honorable or general-under-honorable conditions.

(b) The effective date of this section is January 14, 2010.

### Current Rule

#### **§211.27. Reporting Responsibilities of Individuals.**

[(a) When a licensee is arrested, charged, or indicted for a criminal offense above the grade of Class C misdemeanor or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, that person must report such fact to the commission in writing within 30 days, including the name of the arresting agency, the style, court, and cause number of the charge or indictment, if any, and the address to which notice of any commission action will be mailed.

(b) A person to whom this section applies must also report to the commission the final disposition of the criminal action within 30 days of the effective date of the disposition.

(c) A licensee must report any name change to the commission within 30 days.

(d) A licensee must report to the commission a permanent mailing address other than an agency address and must report to the commission any change within 30 days.

(e) A licensee must report all subsequent DD214's to the Commission indicating any military discharge other than under honorable or general-under-honorable conditions within 30 days.

(f) The effective date of this section is March 1, 2008.]

# Proposed Order 10-07-211.29 Responsibilities of Agency Chief Administrators

## **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §211.29, Responsibilities of Agency Chief Administrators. Subsection (b) adds the reporting requirements of incident-based data collected for racial profiling. The following subsections were re-lettered due to the addition. Subsection (m) reflects the effective date of the changes.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.164 from House Bill 3389, Section 8.

## **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

## **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that all agencies are in compliance with the incident-based reporting requirements.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

## **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

## **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.164 Collection of Certain Incident-Based Data Submitted by Law Enforcement Agencies.

No other code, article, or statute is affected by this proposal.

## **Rule Draft**

### **§211.29. Responsibilities of Agency Chief Administrators.**

(a) An agency chief administrator is responsible for making any and all reports and submitting any and all documents required of that agency by the commission.

(b) An agency chief administrator must report, in a standard format, incident-based data compiled in accordance with Texas Occupations Code §1701.164.

(c)[(b)] An agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.

## Proposed Order 10-07-211.29 Responsibilities of Agency Chief Administrators

(d)~~(c)~~ Before an agency appoints any licensee to a position requiring a commission license it shall complete the reporting requirements of Texas Occupations Code §1701.451.

(e)~~(d)~~ An agency shall notify the commission, electronically or in writing, within 30 days, when it receives information that a person under appointment with that agency has been arrested, charged, indicted, or convicted for any offense above a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence.

(f)~~(e)~~ Except in the case of a commission error, an agency that wishes to report a change to any information within commission files about a licensee shall do so in a request to the commission, containing:

- (1) the licensee's name, date of birth, last four digits of the social security number, or PID
- (2) the requested change; and
- (3) the reason for the change.

(g)~~(f)~~ An agency must notify the commission, electronically or in writing, following the requirements of Texas Occupations Code §1701.452 within 7 business days, when a person under appointment with that agency resigns or is terminated.

(h)~~(g)~~ An agency chief administrator must comply with orders from the commission regarding the correction of a report of resignation/termination or request a hearing from SOAH.

(i)~~(h)~~ Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.

(j)~~(i)~~ An individual who is appointed or elected to the position of the chief administrator of a law enforcement agency shall notify the Commission of the date of appointment and title, through a form prescribed by the Commission within 30 days of such appointment.

(k)~~(j)~~ An individual who vacates an appointed or elected position of the chief administrator of a law enforcement agency shall notify the Commission of the date the position was terminated, through a form prescribed by the Commission within 7 business days of vacating that position.

(l)~~(k)~~ An agency chief administrator must report to the commission within 30 days, any change in the agency's name, physical location, mailing address, electronic mail address, or telephone number.

(m)~~(l)~~ The effective date of this section is January 14, 2010.~~[January 1, 2009.]~~

### **Current Rule**

#### **§211.29. Responsibilities of Agency Chief Administrators.**

- (a) An agency chief administrator is responsible for making any and all reports and submitting any and all documents required of that agency by the commission.
- (b) An agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.
- (c) Before an agency appoints any licensee to a position requiring a commission license it shall complete the reporting requirements of Texas Occupations Code §1701.451.
- (d) An agency shall notify the commission, electronically or in writing, within 30 days, when it receives information that a person under appointment with that agency has been arrested, charged, indicted, or convicted for any offense above a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence.
- (e) Except in the case of a commission error, an agency that wishes to report a change to any information within commission files about a licensee shall do so in a request to the commission, containing:
  - (1) the licensee's name, date of birth, last four digits of the social security number, or PID
  - (2) the requested change; and
  - (3) the reason for the change.
- (f) An agency must notify the commission, electronically or in writing, following the requirements of Texas Occupations Code §1701.452 within 7 business days, when a person under appointment with that agency resigns or is terminated.

## **Proposed Order 10-07-211.29 Responsibilities of Agency Chief Administrators**

- (g) An agency chief administrator must comply with orders from the commission regarding the correction of a report of resignation/termination or request a hearing from SOAH.
- (h) Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.
- (i) An individual who is appointed or elected to the position of the chief administrator of a law enforcement agency shall notify the Commission of the date of appointment and title, through a form prescribed by the Commission within 30 days of such appointment.
- (j) An individual who vacates an appointed or elected position of the chief administrator of a law enforcement agency shall notify the Commission of the date the position was terminated, through a form prescribed by the Commission within 7 business days of vacating that position.
- (k) An agency chief administrator must report to the commission within 30 days, any change in the agency's name, physical location, mailing address, electronic mail address, or telephone number.
- (l) The effective date of this section is January 1, 2009.

## Proposed Order 10-09-215.13 Risk Assessment

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §215.13, Risk Assessment. Subsection (a) is amended to reflect the terminology change. Subsection (a1-12) is amended for renumbering. Subsection (b) is amended to reflect the terminology change. Subsection (b1-12) is amended for renumbering. Subsection (c) is amended to reflect the terminology change. Subsection (c1-12) is amended for renumbering. Subsection (d) is amended for grammatical change. Subsection (e) is added to include a timeline and procedure for tracking a training provider's progress toward compliance. Subsection (g) is amended to reflect the terminology change. Subsection (h) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.254 from House Bill 3389, Section 13.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by identifying and assisting at risk programs in returning to compliance so they may provide effective law enforcement officer training program for the community.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.254 Risk Assessment and Inspections.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

§215.13. Risk Assessment.

(a) A law enforcement academy may be found at risk and placed on at-risk probationary status

## Proposed Order 10-09-215.13 Risk Assessment

if:

[(1) after January 1, 2003, if the passing rate on a licensing examination for first attempts for any state fiscal year is less than 70 percent of the students attempting the licensing exam;]

(1)[(2)] after September 1, 2009, the passing rate on a licensing exam for first attempts for any three consecutive state fiscal years, beginning with state fiscal year 2007 (September 1, 2006 through August 31, 2007) is less than 80 percent of the students attempting the licensing exam;

(2)[(3)] commission required learning objectives are not taught;

(3)[(4)] lesson plans for classes conducted are not on file;

(4)[(5)] examination and other evaluative scoring documentation is not on file;

(5)[(6)] the academy submits false reports to the commission;

(6)[(7)] the academy makes repeated errors in reporting;

(7)[(8)] the academy does not respond to commission requests for information;

(8)[(9)] the academy does not comply with commission rules or other applicable law;

(9)[(10)] the academy does not achieve the goals identified in its application for a license;

(10)[(11)] the academy does not meet the needs of the officers and law enforcement agencies served; or

(11)[(12)] the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of training or failure to meet training needs for the service area.

(b) A contractual provider may be found at risk and placed on at-risk probationary status if:

(1) the contractor provides licensing courses and fails to comply with the passing rates in subsection (a)(1) of this section;

(2) lesson plans for classes conducted are not on file;

(3) examination and other evaluative scoring documentation is not on file;

(4) the provider submits false reports to the commission;

(5) the provider makes repeated errors in reporting;

(6) the provider does not respond to commission requests for information;

(7) the provider does not comply with commission rules or other applicable law;

(8) the provider does not achieve the goals identified in its application for a license or contract;

(9) the provider does not meet the needs of the officers and law enforcement agencies served; or

(10) the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of training or failure to meet training needs for the service area.

(c) An academic alternative provider may be found at risk and placed on at-risk probationary status if:

(1) the academic alternative provider fails to comply with the passing rates in subsection (a)(1) of this section:

[(1) after January 1, 2003, if the passing rate on a licensing examination for first attempts for any 3 state fiscal year period is less than 70 percent of the students attempting the licensing exam;]

[(2) after September 1, 2009, the passing rate on a licensing exam for first attempts for any three consecutive state fiscal years, beginning with state fiscal year 2007 (September 1, 2006 through August 31, 2007) is less than 80 percent of the students attempting the licensing exam;]

(2)[(3)] courses are not conducted in compliance with Higher Education Program Guidelines accepted by the commission;

(3)[(4)] the commission required learning objectives are not taught;

(4)[(5)] the program submits false reports to the commission;

(5)[(6)] the program makes repeated errors in reporting;

## Proposed Order 10-09-215.13 Risk Assessment

(6)[(7)] the program does not respond to commission requests for information;  
(7)[(8)] the program does not comply with commission rules or other applicable law;  
(8)[(9)] the program does not achieve the goals identified in its application for a license or contract;

(9)[(10)] the program does not meet the needs of the students and law enforcement agencies served; or

(10)[(11)] the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of education or failure to meet education needs for the service area.

(d) If at risk, the chief administrator of the sponsoring organization, or the training coordinator, must report to the commission in writing within 30 days what steps are being [have been] taken to correct deficiencies and on what date they expect to be in compliance.

(e) The chief administrator of the sponsoring organization, or the training coordinator, shall report to the commission the progress toward compliance within the timelines provided in the management response as provided in subsection (d).

(f)[(e)] The commission may take action to revoke their license or contract. The commission may choose not to renew a license or contract with a program that has been found to be at risk or the commission may renew the contract for a shorter period than stated in §215.1 of this chapter.

(g)[(f)] A training or educational program placed on at-risk probationary status [at risk] must notify all students and potential students of their at risk status.

(h)[(g)] The effective date of this section is January 14, 2010. [July 6, 2009.]

### **Current Rule**

§215.13. Risk Assessment.

(a) A law enforcement academy may be found at risk if:

(1) after January 1, 2003, if the passing rate on a licensing examination for first attempts for any state fiscal year is less than 70 percent of the students attempting the licensing exam;

(2) after September 1, 2009, the passing rate on a licensing exam for first attempts for any three consecutive state fiscal years, beginning with state fiscal year 2007

(September 1, 2006 through August 31, 2007) is less than 80 percent of the students attempting the licensing exam;

(3) commission required learning objectives are not taught;

(4) lesson plans for classes conducted are not on file;

(5) examination and other evaluative scoring documentation is not on file;

(6) the academy submits false reports to the commission;

(7) the academy makes repeated errors in reporting;

(8) the academy does not respond to commission requests for information;

(9) the academy does not comply with commission rules or other applicable law;

(10) the academy does not achieve the goals identified in its application for a license;

(11) the academy does not meet the needs of the officers and law enforcement agencies served; or

(12) the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of training or failure to meet training needs for the service area.

(b) A contractual provider may be found at risk if:

(1) the contractor provides licensing courses and fails to comply with the passing rates in subsection (a)(1) of this section;

(2) lesson plans for classes conducted are not on file;

(3) examination and other evaluative scoring documentation is not on file;

(4) the provider submits false reports to the commission;

(5) the provider makes repeated errors in reporting;

## Proposed Order 10-09-215.13 Risk Assessment

- (6) the provider does not respond to commission requests for information;
  - (7) the provider does not comply with commission rules or other applicable law;
  - (8) the provider does not achieve the goals identified in its application for a license or contract;
  - (9) the provider does not meet the needs of the officers and law enforcement agencies served; or
  - (10) the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of training or failure to meet training needs for the service area.
- (c) An academic alternative provider may be found at risk if:
- (1) after January 1, 2003, if the passing rate on a licensing examination for first attempts for any 3 state fiscal year period is less than 70 percent of the students attempting the licensing exam;
  - (2) after September 1, 2009, the passing rate on a licensing exam for first attempts for any three consecutive state fiscal years, beginning with state fiscal year 2007 (September 1, 2006 through August 31, 2007) is less than 80 percent of the students attempting the licensing exam;
  - (3) courses are not conducted in compliance with Higher Education Program Guidelines accepted by the commission;
  - (4) the commission required learning objectives are not taught;
  - (5) the program submits false reports to the commission;
  - (6) the program makes repeated errors in reporting;
  - (7) the program does not respond to commission requests for information;
  - (8) the program does not comply with commission rules or other applicable law;
  - (9) the program does not achieve the goals identified in its application for a license or contract;
  - (10) the program does not meet the needs of the students and law enforcement agencies served; or
  - (11) the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of education or failure to meet education needs for the service area.
- (d) If at risk, the chief administrator of the sponsoring organization, or the training coordinator, must report to the commission in writing within 30 days what steps have been taken to correct deficiencies and on what date they expect to be in compliance.
- (e) The commission may take action to revoke their license or contract. The commission may choose not to renew a license or contract with a program that has been found to be at risk or the commission may renew the contract for a shorter period than stated in §215.1 of this chapter.
- (f) A training or educational program at risk must notify all students and potential students of their at risk status.
- (g) The effective date of this section is July 6, 2009.



# **Proposed Order 10-11-217.7 Reporting the Appointment and Termination of a Licensee**

## **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §217.7, Reporting the Appointment and Termination of a Licensee. Subsection (a) is amended to allow for the electronic submission of requests. Subsection (a)(1) is amended to allow for the electronic submission of requests. Subsection (a)(2) is amended to allow for the electronic submission of requests. Subsection (b) is added to identify the verification requirements. The following subsections were re-lettered as a result. Subsection (f)(4) is amended for a grammatical change. Subsection (j) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.451 from House Bill 3389, Section 19.

## **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

## **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by allowing agencies to utilize electronic submission of requests.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

## **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

## **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.451 Preemployment Request for Employment Termination Report and Submission of Background Check Confirmation Form.

No other code, article, or statute is affected by this proposal.

## **Rule Draft**

**§217.7. Reporting the Appointment and Termination of a Licensee.**

## Proposed Order 10-11-217.7 Reporting the Appointment and Termination of a Licensee

(a) Before a law enforcement agency may hire a person licensed under Chapter 1701, Occupations Code, the agency head or the agency head's designee must[, on the agency's letterhead with the appropriate signature]:

(1) make a [written] request to the commission for any employment termination report(s) [report] regarding the person [that is] maintained by the commission under this chapter; and

(2) submit to the commission in a manner [on the form] prescribed by the commission confirmation that the agency:

(A) conducted in the manner prescribed by the commission a criminal background check regarding the person;

(B) obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;

(C) obtained from the commission any service or education records regarding the person maintained by the commission; and

(D) contacted each of the person's previous law enforcement employers.

(b) A request submitted electronically under this section must contain identifying information, acceptable to the commission, for verification.

(c)[(b)] A law enforcement agency that obtains a consent form described by subsection (a)(2)(B) of this section shall make the person's employment records available to a hiring law enforcement agency on request.

(d)[(c)] Before appointing a licensee whose license is inactive or has expired, an agency shall ensure that the individual meets the current minimum standards for licensure.

(e)[(d)] An agency that appoints an individual who already holds a valid, active license appropriate to that position must notify the commission of such appointment not later than 30 days after the date of appointment. The appointing agency must have on file documentation that a peace officer licensee is compliant with weapons qualification according to §217.21 of this chapter within the last 12 months.

(f)[(e)] If the appointment is made after a 180-day break in service, the agency must have the following on file and readily accessible to the commission:

(1) a new criminal history check by name, sex, race and date of birth from both TCIC and NCIC;

(2) a new declaration of psychological and emotional health;

(3) a new declaration of lack of any drug dependency or illegal drug use; and

(4) one completed applicant fingerprint card or, pending receipt of such card, an original sworn, notarized affidavit by the applicant of their [his or her] complete criminal history; such affidavit to be maintained by the agency while awaiting the return of completed applicant fingerprint card; and

(5) for peace officers, weapons qualification according to §217.21 of this chapter within the last 12 months.

(g)[(f)] When an individual licensed by the commission or a telecommunicator separates from appointment or employment with an agency, the agency shall submit a report to the commission in the currently prescribed commission format that reports the separation. The report shall be submitted within 7 business days following the date of separation. If a licensee has filed a timely grievance or appeal within the personnel policies of the agency, the agency shall not be required to file the report until all administrative remedies have been exhausted. The agency shall provide the individual who is the subject of the report a copy of the report within 7 business days after the date of separation.

(h)[(g)] An agency must retain records kept under this section for a minimum of five years after the licensee's termination date with that agency. The records must be maintained in a format readily accessible to the commission.

(i)[(h)] A report or statement of separation submitted under section (f) is exempt from disclosure under the Public Information Act, Chapter 552, Government Code, unless the individual resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses, and is subject to subpoena only in a judicial proceeding.

## Proposed Order 10-11-217.7 Reporting the Appointment and Termination of a Licensee

(i)(i) The effective date of this section is January 14, 2010. [May 1, 2009.]

### **Current Rule**

#### **§217.7. Reporting the Appointment and Termination of a Licensee.**

(a) Before a law enforcement agency may hire a person licensed under Chapter 1701, Occupations Code, the agency head or the agency head's designee must, on the agency's letterhead with the appropriate signature:

- (1) make a written request to the commission for any employment termination report regarding the person that is maintained by the commission under this chapter; and
- (2) submit to the commission on the form prescribed by the commission confirmation that the agency:

- (A) conducted in the manner prescribed by the commission a criminal background check regarding the person;
- (B) obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;
- (C) obtained from the commission any service or education records regarding the person maintained by the commission; and
- (D) contacted each of the person's previous law enforcement employers.

(b) A law enforcement agency that obtains a consent form described by subsection (a)(2)(B) of this section shall make the person's employment records available to a hiring law enforcement agency on request.

(c) Before appointing a licensee whose license is inactive or has expired, an agency shall ensure that the individual meets the current minimum standards for licensure.

(d) An agency that appoints an individual who already holds a valid, active license appropriate to that position must notify the commission of such appointment not later than 30 days after the date of appointment. The appointing agency must have on file documentation that a peace officer licensee is compliant with weapons qualification according to §217.21 of this chapter within the last 12 months.

(e) If the appointment is made after a 180-day break in service, the agency must have the following on file and readily accessible to the commission:

- (1) a new criminal history check by name, sex, race and date of birth from both TCIC and NCIC;
- (2) a new declaration of psychological and emotional health;
- (3) a new declaration of lack of any drug dependency or illegal drug use; and
- (4) one completed applicant fingerprint card or, pending receipt of such card, an original sworn, notarized affidavit by the applicant of his or her complete criminal history; such affidavit to be maintained by the agency while awaiting the return of completed applicant fingerprint card; and
- (5) for peace officers, weapons qualification according to §217.21 of this chapter within the last 12 months.

(f) When an individual licensed by the commission or a telecommunicator separates from appointment or employment with an agency, the agency shall submit a report to the commission in the currently prescribed commission format that reports the separation. The report shall be submitted within 7 business days following the date of separation. If a licensee has filed a timely grievance or appeal within the personnel policies of the agency, the agency shall not be required to file the report until all administrative remedies have been exhausted. The agency shall provide the individual who is the subject of the report a copy of the report within 7 business days after the date of separation.

(g) An agency must retain records kept under this section for a minimum of five years after the licensee's termination date with that agency. The records must be maintained in a format readily accessible to the commission.

(h) A report or statement of separation submitted under section (f) is exempt from disclosure under the Public Information Act, Chapter 552, Government Code, unless the individual

**Proposed Order 10-11-217.7 Reporting the Appointment and Termination of a Licensee**

resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses, and is subject to subpoena only in a judicial proceeding.

(i) The effective date of this section is May 1, 2009.

# Proposed Order 10-12-217.8 Contesting an Employment Termination Report

## **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §217.8, Contesting an Employment Termination Report. Subsection (a) is amended to clarify a reference to another rule. Subsection (d) is amended to reflect a procedural change. Subsection (e) is amended to identify the commission is not a party to these contested cases. Subsection (i) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.4525 from House Bill 3389, Section 20.

## **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

## **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by clarifying that the Commission is not a party to SOAH hearings related to employment termination.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

## **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

## **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.4525 Request for Correction of Report; Administrative Penalty; Hearing; Appeal.

No other code, article, or statute is affected by this proposal.

## **Rule Draft**

### **§217.8. Contesting an Employment Termination Report**

(a) A person who is the subject of an employment termination report described in §217.7(f)[(g)] is entitled to file a petition contesting information included in the employment termination report. The petition for correction of the report must be filed with the executive director and a copy must be served on the law enforcement agency.

## Proposed Order 10-12-217.8 Contesting an Employment Termination Report

- (b) A petition described in subsection (a) must be received by the executive director not later than the 30th day after the person receives a copy of the report, and must be accompanied by any evidence offered by the person in support of the requested correction.
- (c) The law enforcement agency may submit rebutting evidence not later than the 20th day after the agency receives a copy of the petition.
- (d) Upon review of the petition the executive director will refer the dispute to SOAH.
- [(d) Upon review of the petition and any rebutting evidence offered by the law enforcement agency, the executive director may either:
- (1) recommend that the commission order the chief administrative officer of the law enforcement agency to correct the report; or
  - (2) refer the dispute to the State Office of Administrative Hearings.]
- (e) A proceeding conducted pursuant to subsection (d)[(2)] of this section is a contested case under chapter 2001, Government Code. The parties to the proceeding shall be the person contesting the employment termination and the chief administrative officer of the law enforcement agency. The commission is not considered a party in a proceeding conducted by SOAH. [the person contesting the employment termination report, the chief administrative officer of the law enforcement agency, and the executive director.] The chief administrative officer of the law enforcement agency shall have the burden of proof by a preponderance of the evidence. Following the contested case hearing, the administrative law judge shall issue a final order on the petition.
- (f) Any party to a proceeding described in subsection (e) of this section may file exceptions to the administrative law judge's final order in accordance with SOAH [State Office of Administrative Hearings] rules and procedures.
- (g) The results of a hearing described in subsection (e) are enforceable by the commission pursuant to Chapter 1701, Texas Occupations Code and Chapter 2001, Government Code.
- [(g) A final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is enforceable by the commission pursuant to Chapter 1701, Texas Occupations Code and Chapter 2001, Government Code.]
- (h) The results of a hearing described in subsection (e) are appealable in accordance with chapter 2001, Government Code.
- [(h) A final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is appealable in accordance with chapter 2001, Government Code.]
- (i) A chief administrative officer of a law enforcement agency who fails to comply with the results of a hearing described in subsection (e) is subject to disciplinary action pursuant to Chapter 1701, Texas Occupations Code, and Chapter 223 of this title.
- [(i) A chief administrative officer of a law enforcement agency who fails to comply with a final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is subject to disciplinary action pursuant to Chapter 1701, Texas Occupations Code, and Chapter 223 of this title.]
- (j) The effective date of this section is January 14, 2010.[March 1, 2008.]

### **Current Rule**

#### **§217.8. Contesting an Employment Termination Report**

- (a) A person who is the subject of an employment termination report described in §217.7(g) is entitled to file a petition contesting information included in the employment termination report. The petition for correction of the report must be filed with the executive director and a copy must be served on the law enforcement agency.
- (b) A petition described in subsection (a) must be received by the executive director not later than the 30th day after the person receives a copy of the report, and must be accompanied by any evidence offered by the person in support of the requested correction.
- (c) The law enforcement agency may submit rebutting evidence not later than the 20th day after the agency receives a copy of the petition.

## **Proposed Order 10-12-217.8 Contesting an Employment Termination Report**

(d) Upon review of the petition and any rebutting evidence offered by the law enforcement agency, the executive director may either:

- (1) recommend that the commission order the chief administrative officer of the law enforcement agency to correct the report; or
- (2) refer the dispute to the State Office of Administrative Hearings.

(e) A proceeding conducted pursuant to subsection (d)(2) of this section is a contested case under chapter 2001, Government Code. The parties to the proceeding shall be the person contesting the employment termination report, the chief administrative officer of the law enforcement agency, and the executive director. The chief administrative officer of the law enforcement agency shall have the burden of proof by a preponderance of the evidence. Following the contested case hearing, the administrative law judge shall issue a final order on the petition.

(f) Any party to a proceeding described in subsection (e) of this section may file exceptions to the administrative law judge's final order in accordance with State Office of Administrative Hearings rules and procedures.

(g) A final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is enforceable by the commission pursuant to Chapter 1701, Texas Occupations Code and Chapter 2001, Government Code.

(h) A final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is appealable in accordance with chapter 2001, Government Code.

(i) A chief administrative officer of a law enforcement agency who fails to comply with a final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is subject to disciplinary action pursuant to Chapter 1701, Texas Occupations Code, and Chapter 223 of this title.

(j) The effective date of this section is March 1, 2008.

## **Proposed Order 10-13-217.11 Legislatively Required Continuing Education for Licensees**

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes the repeal of and new Title 37, Texas Administrative Code §217.11, Legislatively Required Continuing Education for Licensees. The section proposed for repeal addresses the continuing education requirements of licensees. The proposed repeal of and new rule would identify the continuing education requirements for individuals licensed as peace officers, county jailers, and reserves. These requirements include: changes to the laws of this state and of the United States pertaining to peace officers; civil rights, racial sensitivity, and cultural diversity; de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; and unless determined by the agency head to be inconsistent with the officer's assigned duties: the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; issues concerning sex offender characteristics, and effective date.

The proposed action would repeal the current requirements from rule and specify the continuing education requirements for licensees.

Current §211.27, proposed for repeal, describes the continuing education requirements for licensees.

Proposed new §217.11 Legislatively Required Continuing Education for Licensees, would clarify the licensees' continuing education requirements. These changes are necessary to incorporate the changes to Texas Occupations Code §1701.351 from House Bill 3389, Sections 15 and 16. Additional amendments are necessary to incorporate the changes to Texas Occupations Code §1701.351 from House Bill 4009, Section 5.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that all peace officers receive training on changes to the laws of this state and of the United States.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there may be a positive economic impact for small businesses. With a new training course, those businesses offering training may see an increase in business.

The Commission has determined that there may be a monetary cost and time investment to licensees.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.



## Proposed Order 10-13-217.11 Legislatively Required Continuing Education for Licensees

### Statutory Authority

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.351 Continuing Education Required For Peace Officers.

No other code, article, or statute is affected by this proposal.

### Rule Draft

#### **§217.11. Legislatively Required Continuing Education for Licensees.**

(a) Individuals appointed as peace officers shall complete at least 40 hours of continuing education training and must complete a training and education program that covers recent changes to the laws of this state and of the United States pertaining to peace officers every 24-month unit of a training cycle.

(b) Each agency that appoints or employs peace officers, reserve law enforcement officers, jailers, or public security officers shall provide each peace officer, reserve law enforcement officer, jailer, or public security officer whom it appoints or employs with a continuing education program at least once every 48-month training cycle. Part of this training program consists of topics selected by the agency. This rule does not limit the number of hours of continuing education an agency may provide.

(c) Part of the legislatively required peace officer training in every 48-month training cycle must include the curricula and learning objectives developed by the commission, to include:

(1) for an officer holding a basic proficiency certificate or less, not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, and cultural diversity;

(B) de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments; and

(C) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and

(ii) issues concerning sex offender characteristics; and

(2) supervision issues for each peace officer appointed to their first supervisory position, this training must be completed within 24 months following the date of appointment as a supervisor.

(d) Individuals licensed as reserve law enforcement officers, jailers, or public security officers shall meet the training requirements for civil rights, racial sensitivity, and cultural diversity in every 48-month training cycle.

(e) A peace officer first licensed on or after January 1, 2011, must complete a basic training program on the trafficking of persons within one year of licensure.

(f) For appointed or elected constables:

(1) An individual appointed or elected to that individual's first position as constable must complete at least 40 hours of initial training for new constables in accordance with 1701.3545(c), Occupations Code.

(2) Each constable must complete at least 40 hours of continuing education in accordance with 1701.3545(b), Occupations Code, each 48-month period.

(g) Each deputy constable shall also complete a 20 hour course of training in civil process during each current training cycle.

(h) In accordance with 96.641, Education Code, individuals appointed as "chief" or "police chief" of a police department:

## **Proposed Order 10-13-217.11 Legislatively Required Continuing Education for Licensees**

- (1) A newly appointed or elected police chief shall complete the initial training program for new chiefs not later than the second anniversary of that individual's appointment or election as chief.
- (2) Each police chief must receive at least 40 hours of continuing education provided by the Bill Blackwood Law Enforcement Management Institute each 24-month period.
- (i) The commission shall provide adequate notice to agencies and licensees of impending non-compliance with the legislatively required continuing education.
- (j) The chief administrator of an agency that has licensees who are in non-compliance shall, within 30 days of receipt of notice of non-compliance, submit a report to the commission explaining the reasons for such non-compliance.
- (k) The commission may take disciplinary action against a licensee for failure to complete the legislatively required continuing education program at least once every training unit.
- (l) The commission may take disciplinary action against a licensee for failure to complete the appropriate training within a training cycle.
- (m) Individuals licensed as peace officers shall complete the legislatively required continuing education program required under this section beginning in the first complete 24-month unit immediately following the date of licensing.
- (n) Individuals licensed as county jailers shall complete the legislatively required continuing education program required under this section beginning in the first complete 48-month cycle immediately following the date of licensing.
- (o) All peace officers must meet all continuing education requirements except where exempt by law.
- (p) The effective date of this section is January 14, 2010.

### **Current Rule**

#### **§217.11. Legislatively Required Continuing Education for Licensees.**

- (a) Individuals appointed as peace officers shall complete at least 40 hours of continuing education training every 24 month unit of a training cycle.
- (b) Each agency that appoints or employs peace officers, reserve law enforcement officers, jailers, or public security officers shall provide each peace officer, reserve law enforcement officer, jailer, or public security officer it appoints or employs a continuing education program at least once every 48 month training cycle. This rule does not limit the number of hours of continuing education an agency may provide to each peace officer, reserve law enforcement officer, jailer, or public security officer it appoints or employs.
- (c) Part of the legislatively required peace officer training must include the curricula and learning objectives developed by the commission, to include:
  - (1) civil rights, racial sensitivity, and cultural diversity during each current training cycle;
  - (2) the recognition and documentation of cases that involve child abuse or neglect, family violence, sexual assault, issues concerning sex offender characteristics during each current training cycle. If an agency chief administrator determines these subjects to be inconsistent with the peace officer's assigned duties, the chief administrator may substitute other training determined to be consistent with the officer's assigned duties and report the substitution to the commission; and
  - (3) supervision issues for each peace officer appointed to their first supervisory position, this training must be completed within 24 months following the date of appointment as a supervisor.
- (d) Individuals licensed as reserve law enforcement officers, jailers, or public security officers shall meet the requirements in subsection (c)(1) of this section.
- (e) For appointed or elected constables:
  - (1) An individual appointed or elected to that individual's first position as constable must complete at least 40 hours of initial training for new constables in accordance with Occupations Code, 1701.3545(c).

## **Proposed Order 10-13-217.11 Legislatively Required Continuing Education for Licensees**

- (2) Each constable must complete at least 40 hours of continuing education in accordance with Occupations Code, 1701.3545(b), each 48-month period.
- (f) Each deputy constable shall also complete a 20 hour course of training in civil process during each current training cycle.
- (g) For individuals appointed as “chief” or “police chief” of a police department:
  - (1) A newly appointed or elected police chief shall complete the initial training program for new chiefs not later than the second anniversary of that individual's appointment or election as chief.
  - (2) Each police chief must receive at least 40 hours of continuing education provided by the Bill Blackwood Law Enforcement Management Institute, as per section 96.641, Education Code, each 24-month period.
- (h) The commission shall provide adequate notice to agencies and licensees of impending non-compliance with the legislatively required continuing education.
- (i) The chief administrator of an agency that has licensees who are in non-compliance shall, within 30 days of receipt of notice of non-compliance, submit a report to the commission explaining the reasons for such non-compliance.
- (j) The commission may suspend or deny renewal of a license for failure to complete the legislatively required continuing education program at least once every training unit.
- (k) The commission may take action against a licensee for failure to complete the appropriate training within a training cycle.
- (l) Individuals licensed as peace officers shall complete the legislatively required continuing education program required under this section beginning in the first complete 24 month unit immediately following the date of licensing.
- (m) All peace officers must meet all continuing education requirements except where exempt by law.
- (n) Licensees who have met the current legislatively required continuing education will have their license(s) automatically renewed on the last day of the training unit.
- (o) The effective date of this section is January 1, 2009.

## **Proposed Order 10-14-221.3 Peace Officer Proficiency**

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §221.3, Peace Officer Proficiency. Subsection (a)(2) is amended to incorporate the course requirements for Basic Peace Officer certificates. Subsection (b)(2) is amended for a grammatical change. Subsection (b)(3) is amended to incorporate the course requirements for Intermediate Peace Officer certificates. Subsection (c)(2) is amended to incorporate the course requirements for Advanced Peace Officer certificates. Subsection (c)(3) is amended for a grammatical change. Subsection (e) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.402 from House Bill 3389, Section 17 and House Bill 4009, Section 6.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there may be an effect on state or local governments as a result of administering this section. Agencies may be required to replace currently scheduled training sessions with other training courses or add additional training courses.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by providing officers with training in cultural diversity and human trafficking, improving their effectiveness in serving their communities.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there may be a positive economic impact for small businesses offering training courses.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.402 Proficiency Certificates.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **§221.3. Peace Officer Proficiency.**

(a) To qualify for a basic peace officer proficiency certificate, an applicant must meet all proficiency requirements including:

## Proposed Order 10-14-221.3 Peace Officer Proficiency

- (1) one year experience as a peace officer; and
- (2) successful completion of courses currently required by Texas Occupations Code §1701.402 and the commission.

[(2) successful completion of a field training course and a course that includes instruction provided by the employing agency on federal and state statutes that relate to employment issues affecting peace officers, including:

- (A) civil service;
- (B) compensation, including overtime compensation, and vacation time;
- (C) personnel files and other employee records;
- (D) management-employee relations in law enforcement organizations;
- (E) work-related injuries;
- (F) complaints and investigations of employee misconduct; and
- (G) disciplinary actions and the appeal of disciplinary actions.]

(b) To qualify for an intermediate peace officer proficiency certificate, an applicant must meet all proficiency requirements including:

- (1) a basic peace officer certificate;
- (2) one of the following combinations of training hours or degrees and peace officer experience:

- (A) 400 training hours and eight years<sub>1</sub>;
  - (B) 800 training hours and six years<sub>1</sub>;
  - (C) 1200 training hours and four years or an associate's degree and four years;  
or
  - (D) 2400 training hours and two years or a bachelor's degree and two years<sub>1</sub>;
- and

- (3) successful completion of courses currently required by Texas Occupations Code §1701.402 and the commission.

[if the basic peace officer certificate was issued or qualified for on or after January 1, 1987, the licensee must also complete all of the current intermediate peace officer certification courses, which include:

- (A) Child Abuse Prevention and Investigation;
- (B) Crime Scene Investigation;
- (C) Use of Force;
- (D) Arrest, Search and Seizure;
- (E) Spanish for Law Enforcement;
- (F) Asset Forfeiture;
- (G) Racial Profiling;
- (H) Identity Theft; and
- (I) Crisis Intervention Techniques.]

(c) To qualify for an advanced peace officer proficiency certificate, an applicant must meet all proficiency requirements including:

- (1) an intermediate peace officer certificate;
- (2) successful completion of courses currently required by Texas Occupations Code §1701.402 and the commission; and
- (3)[(2)] one of the following combinations of training hours or degrees and peace officer experience:

- (A) 800 training hours and 12 years<sub>1</sub>;
- (B) 1200 training hours and nine years or an associate's degree and six years<sub>1</sub>;or
- (C) 2400 training hours and six years or a bachelor's degree and five years<sub>1</sub>;and]

[(3) If an Intermediate proficiency certificate was earned before September 1, 2006, complete the commission approved course of instruction in crisis intervention techniques.]

(d) To qualify for a master peace officer proficiency certificate, an applicant must meet all proficiency requirements including:

## Proposed Order 10-14-221.3 Peace Officer Proficiency

- (1) an advanced peace officer certificate; and
  - (2) one of the following combinations of training hours or degrees and peace officer experience:
    - (A) 1200 training hours and 20 years or an associate's degree and 12 years;
    - (B) 2400 training hours and 15 years or a bachelor's degree and nine years;
    - (C) 3300 training hours and 12 years or a master's degree and seven years, or
    - (D) 4000 training hours and 10 years or a doctoral degree and five years.
- (e) The effective date of this section is January 14, 2010. [March 1, 2008.]

### **Current Rule**

#### **§221.3. Peace Officer Proficiency.**

- (a) To qualify for a basic peace officer proficiency certificate, an applicant must meet all proficiency requirements including:
- (1) one year experience as a peace officer; and
  - (2) successful completion of a field training course and a course that includes instruction provided by the employing agency on federal and state statutes that relate to employment issues affecting peace officers, including:
    - (A) civil service;
    - (B) compensation, including overtime compensation, and vacation time;
    - (C) personnel files and other employee records;
    - (D) management-employee relations in law enforcement organizations;
    - (E) work-related injuries;
    - (F) complaints and investigations of employee misconduct; and
    - (G) disciplinary actions and the appeal of disciplinary actions.
- (b) To qualify for an intermediate peace officer proficiency certificate, an applicant must meet all proficiency requirements including:
- (1) a basic peace officer certificate;
  - (2) one of the following combinations of training hours or degrees and peace officer experience:
    - (A) 400 training hours and eight years;
    - (B) 800 training hours and six years;
    - (C) 1200 training hours and four years or an associate's degree and four years;or
    - (D) 2400 training hours and two years or a bachelor's degree and two years.
  - (3) if the basic peace officer certificate was issued or qualified for on or after January 1, 1987, the licensee must also complete all of the current intermediate peace officer certification courses, which include:
    - (A) Child Abuse Prevention and Investigation;
    - (B) Crime Scene Investigation;
    - (C) Use of Force;
    - (D) Arrest, Search and Seizure;
    - (E) Spanish for Law Enforcement;
    - (F) Asset Forfeiture;
    - (G) Racial Profiling;
    - (H) Identity Theft; and
    - (I) Crisis Intervention Techniques.
- (c) To qualify for an advanced peace officer proficiency certificate, an applicant must meet all proficiency requirements including:
- (1) an intermediate peace officer certificate;
  - (2) one of the following combinations of training hours or degrees and peace officer experience:
    - (A) 800 training hours and 12 years;
    - (B) 1200 training hours and nine years or an associate's degree and six years;

## **Proposed Order 10-14-221.3 Peace Officer Proficiency**

- (C) 2400 training hours and six years or a bachelor's degree and five years; and
- (3) If an Intermediate proficiency certificate was earned before September 1, 2006, complete the commission approved course of instruction in crisis intervention techniques.
- (d) To qualify for a master peace officer proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) an advanced peace officer certificate; and
  - (2) one of the following combinations of training hours or degrees and peace officer experience:
    - (A) 1200 training hours and 20 years or an associate's degree and 12 years;
    - (B) 2400 training hours and 15 years or a bachelor's degree and nine years;
    - (C) 3300 training hours and 12 years or a master's degree and seven years, or
    - (D) 4000 training hours and 10 years or a doctoral degree and five years.
- (e) The effective date of this section is March 1, 2008.

## Proposed Order 10-15-223.1 License Action and Notification

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §223.1, License Action and Notification. Subsection (a) is amended to identify violations by a licensee that the commission may take action on. Subsection (d) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.501 from House Bill 3389, Section 22.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that all agencies are in compliance with the incident-based reporting requirements

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.501 Disciplinary Action.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **§223.1. License Action and Notification.**

(a) The commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of:

- (1) Texas Occupations Code, Chapter 1701;
- (2) the reporting requirements provided by Articles 2.132 and 2.134, Code of Criminal Procedure; or
- (3) a commission rule.



## Proposed Order 10-15-223.1 License Action and Notification

[(a) The commission may take the following disciplinary actions against individuals licensed under the Occupations Code, Chapter 1701:

- (1) written reprimand;
- (2) suspension; or
- (3) revocation.]

(b) The holder of a commission issued license or certificate must be sent notice of any hearing, or other action or matter before the commission at:

- (1) the address of the agency shown in commission records to have the holder under current or last appointment;
- (2) the address shown on the Texas driver's license record of the holder; or
- (3) any other address requested by the holder in a written request to the executive director;

(c) An action by the commission to deny, suspend, or revoke one license will, if so pled, also operate against any other commission license or certificate held by the same person.

(d) The effective date of this section is January 14, 2010. [March 1, 2001.]

### **Current Rule**

#### **§223.1. License Action and Notification.**

(a) The commission may take the following disciplinary actions against individuals licensed under the Occupations Code, Chapter 1701:

- (1) written reprimand;
- (2) suspension; or
- (3) revocation.

(b) The holder of a commission issued license or certificate must be sent notice of any hearing, or other action or matter before the commission at:

- (1) the address of the agency shown in commission records to have the holder under current or last appointment;
- (2) the address shown on the Texas driver's license record of the holder; or
- (3) any other address requested by the holder in a written request to the executive director;

(c) An action by the commission to deny, suspend, or revoke one license will, if so pled, also operate against any other commission license or certificate held by the same person.

(d) The effective date of this section is March 1, 2001.

## Proposed Order 10-16-223.2 Administrative Penalties

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code by adding §223.2, Administrative Penalties. Subsection (a) is added to identify that law enforcement or governmental agencies are subject to an administrative penalty. Subsection (b) is added to identify notification requirements of an administrative penalty. Subsection (c) is added to identify the criteria used to determine administrative penalties. Subsection (d) is added to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.507 from House Bill 3389, Section 23.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be an effect on state or local governments as a result of administering this section. This cost will only be incurred by agencies that violate Texas Occupations Code, Chapter 1701 or commission rules.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by the Commission having another option to encourage agencies to comply with statutory requirements.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.507 Administrative Penalties.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **223.2 Administrative Penalties**

**(a) In addition to other penalties imposed by law, a law enforcement agency or governmental entity that violates this chapter or a rule adopted under this chapter is subject to an administrative penalty in an amount set by the commission not to exceed \$1,000 per day per**

## **Proposed Order 10-16-223.2 Administrative Penalties**

violation. The administrative penalty shall be assessed in a proceeding conducted in accordance with Chapter 2001, Government Code.

(b) The commission shall provide notice to the law enforcement agency a range of penalties that apply to the specific alleged violation(s) and the criteria used to determine the amount of the proposed administrative penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation;

(2) the respondent's history of violations;

(3) the amount necessary to deter future violations;

(4) efforts made by the respondent to correct the violation; and

(5) any other matter that justice may require.

(d) The effective date of this section is January 14, 2010.

## Proposed Order 10-17-223.15 Suspension of License

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code §223.15, Suspension of License. Subsection (a)(3) is amended to identify convictions that would cause the commission to take action against a licensee. Subsection (a)(4) is amended to identify court ordered community supervision situations that would cause the commission to take action against a licensee. Subsection (q) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.1524 from House Bill 3389, Section 7.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no effect on state or local governments as a result of administering this section.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by identifying the convictions and court ordered community supervision situations that would cause the commission to take action against a licensee.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be no anticipated cost to small business, individuals, or both as a result of the proposed section.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.1524 Rules Relating to Consequences of Criminal Conviction or Deferred Adjudication.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **§223.15. Suspension of License.**

(a) Unless revocation is explicitly authorized by law, the commission may suspend any license issued by the commission if the licensee:

- (1) violates any provision of these sections;

## Proposed Order 10-17-223.15 Suspension of License

- (2) violates any provision of the Occupations Code, Chapter 1701;
  - (3) is convicted of any Class B misdemeanor or above [a criminal offense];
  - (4) is charged with the commission of any Class B misdemeanor or above [a misdemeanor], adjudication is deferred, and the licensee receives probation or court-ordered community supervision [is placed on community supervision]; or
  - (5) has previously received two written reprimands from the commission.
- (b) The commission may suspend a license even though it may have become inactive by some other means, such as:
- (1) expiration;
  - (2) voluntary surrender;
  - (3) two-year break in service; or
  - (4) any other means.
- (c) If a licensee is charged with the commission of a felony, adjudication is deferred, and the licensee is placed on community supervision, the commission shall immediately suspend any license held for a period of 20 years. The suspension of any license under this subsection is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee via certified mail that any license held is suspended.
- (d) If a judgment and sentence is entered resulting in a misdemeanor conviction above the grade of a Class C misdemeanor, the term of suspension shall be ten years.
- (e) The commission may suspend for not less than six months and not more than 24 months the license of a person convicted of a Class C misdemeanor that was directly related to the duties and responsibilities of office, after the commission has considered, where applicable, the factors listed in the revocation section.
- (f) If the court's judgment or adjudication is deferred for any misdemeanor above the grade of Class C misdemeanor or any family violence offense; and the licensee is then placed on community supervision, the term of suspension shall be equal to the actual time served on community supervision.
- (g) If a license can be suspended for a community supervision or misdemeanor conviction, the commissioners may, in their discretion and upon proof of mitigating factors, either:
- (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
  - (2) issue a written reprimand in lieu of suspension.
- (h) If a license can be suspended for any other reason, the commission, through its executive director may, in its discretion and upon proof of the same mitigating factors, either:
- (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
  - (2) issue a written reprimand in lieu of suspension.
- (i) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation. The beginning date of a probation must be within the term of suspension. The beginning date of the suspension shall be:
- (1) any date agreed to by both parties, which is no earlier than the date of the rule violation;
  - (2) the date the licensee notifies the commission in writing of the rule violation if the commission later receives a signed waiver of suspension from the licensee that was postmarked within 30 days of its receipt;
  - (3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.
- (j) The executive director shall inform the commissioners of any such probation or reprimand no later than at their next regular meeting. If probated either way, a suspension may not be probated for less than six months.
- (k) The commission may impose reasonable terms of probation, such as:
- (1) continued employment requirements;
  - (2) special reporting conditions;
  - (3) special document submission conditions;

## Proposed Order 10-17-223.15 Suspension of License

- (4) voluntary duty requirements;
  - (5) no further rule or law violations; or
  - (6) any other reasonable term of probation.
- (l) A probated license remains probated until:
- (1) the term of suspension has expired;
  - (2) all other terms of probation have been fulfilled; and
  - (3) a written request for reinstatement has been received and accepted by the commission from the licensee unless the probation has been revoked by the commission for violation of probation; or
  - (4) until revoked.
- (m) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.
- (n) Before reinstatement, the probation of a suspended license may be revoked upon a showing that any of its terms have been violated before the expiration date of the probation regardless of when the petition is filed. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.
- (o) Once a license has been suspended, the suspension probated, the probation revoked, or the licensee reprimanded, the commission shall send, by regular mail, notice of the action to the chief administrator of any agency shown to have the licensee under either current or latest appointment.
- (p) A suspended license remains suspended until:
- (1) the term of suspension has expired and the term of court-ordered community supervision has been completed; and
  - (2) a written request for reinstatement has been received from the licensee and accepted by the commission; or
  - (3) the remainder of the suspension is probated and the license is reinstated.
- (q) The effective date of this section is January 14, 2010. [March 1, 2001.]

### **Current Rule**

#### **§223.15. Suspension of License.**

- (a) Unless revocation is explicitly authorized by law, the commission may suspend any license issued by the commission if the licensee:
- (1) violates any provision of these sections;
  - (2) violates any provision of the Occupations Code, Chapter 1701;
  - (3) is convicted of a criminal offense;
  - (4) is charged with the commission of a misdemeanor, adjudication is deferred, and the licensee is placed on community supervision; or
  - (5) has previously received two written reprimands from the commission.
- (b) The commission may suspend a license even though it may have become inactive by some other means, such as:
- (1) expiration;
  - (2) voluntary surrender;
  - (3) two-year break in service; or
  - (4) any other means.
- (c) If a licensee is charged with the commission of a felony, adjudication is deferred, and the licensee is placed on community supervision, the commission shall immediately suspend any license held for a period of 20 years. The suspension of any license under this subsection is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee via certified mail that any license held is suspended.
- (d) If a judgment and sentence is entered resulting in a misdemeanor conviction above the grade of a Class C misdemeanor, the term of suspension shall be ten years.

## Proposed Order 10-17-223.15 Suspension of License

- (e) The commission may suspend for not less than six months and not more than 24 months the license of a person convicted of a Class C misdemeanor that was directly related to the duties and responsibilities of office, after the commission has considered, where applicable, the factors listed in the revocation section.
- (f) If the court's judgment or adjudication is deferred for any misdemeanor above the grade of Class C misdemeanor or any family violence offense; and the licensee is then placed on community supervision, the term of suspension shall be equal to the actual time served on community supervision.
- (g) If a license can be suspended for a community supervision or misdemeanor conviction, the commissioners may, in their discretion and upon proof of mitigating factors, either:
- (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
  - (2) issue a written reprimand in lieu of suspension.
- (h) If a license can be suspended for any other reason, the commission, through its executive director may, in its discretion and upon proof of the same mitigating factors, either:
- (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
  - (2) issue a written reprimand in lieu of suspension.
- (i) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation. The beginning date of a probation must be within the term of suspension. The beginning date of the suspension shall be:
- (1) any date agreed to by both parties, which is no earlier than the date of the rule violation;
  - (2) the date the licensee notifies the commission in writing of the rule violation if the commission later receives a signed waiver of suspension from the licensee that was postmarked within 30 days of its receipt;
  - (3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.
- (j) The executive director shall inform the commissioners of any such probation or reprimand no later than at their next regular meeting. If probated either way, a suspension may not be probated for less than six months.
- (k) The commission may impose reasonable terms of probation, such as:
- (1) continued employment requirements;
  - (2) special reporting conditions;
  - (3) special document submission conditions;
  - (4) voluntary duty requirements;
  - (5) no further rule or law violations; or
  - (6) any other reasonable term of probation.
- (l) A probated license remains probated until:
- (1) the term of suspension has expired;
  - (2) all other terms of probation have been fulfilled; and
  - (3) a written request for reinstatement has been received and accepted by the commission from the licensee unless the probation has been revoked by the commission for violation of probation; or
  - (4) until revoked.
- (m) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.
- (n) Before reinstatement, the probation of a suspended license may be revoked upon a showing that any of its terms have been violated before the expiration date of the probation regardless of when the petition is filed. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.
- (o) Once a license has been suspended, the suspension probated, the probation revoked, or the licensee reprimanded, the commission shall send, by regular mail, notice of the action to the

## **Proposed Order 10-17-223.15 Suspension of License**

chief administrator of any agency shown to have the licensee under either current or latest appointment.

(p) A suspended license remains suspended until:

(1) the term of suspension has expired and the term of court-ordered community supervision has been completed; and

(2) a written request for reinstatement has been received from the licensee and accepted by the commission; or

(3) the remainder of the suspension is probated and the license is reinstated.

(q) The effective date of this section is March 1, 2001.



## **Proposed Order 10-18-221.1 Proficiency Certificate Requirements**

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code by amending §221.1, Proficiency Certificate Requirements. Subsection (a) is added to clarify proficiency certificates issued by the commission. Subsection (b) is amended to include the Firearms Proficiency for Juvenile Probation officers. Subsection (c) is amended to identify the items that cause an application to be refused. Subsection (d) is amended to allow for cancelation of unqualified certificates. Subsection (e) is amended to allow for cancelation of false applications. Subsection (f) is amended to specify that academic degrees must be from an accredited college or university. Subsection (g) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.507 from House Bill 1237.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there may be an effect on state or local governments as a result of administering this section. The Texas Juvenile Probation Commission may be required to replace currently scheduled training sessions with firearms training courses and purchase ammunition. The Texas Juvenile Probation Commission may also decide to pay the application fee for all Juvenile Probation Officers.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that Juvenile Probation Officers are armed to protect themselves and others they come in contact with during their duties.

The Commission has also determined that there may be a positive economic impact for small businesses. With more people eligible for certification, those businesses offering weapons qualification may see an increase in business.

The Commission has determined that there may be a monetary cost and time investment to the individual to achieve this proficiency certificate, however there will be a positive benefit for the individual and the public by allowing trained Juvenile Probation Officers to be armed so they may protect themselves and others they come in contact with during their duties.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

## Proposed Order 10-18-221.1 Proficiency Certificate Requirements

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.258 Firearms Training Program for Juvenile Probation Officers and §1701.402. Proficiency Certificates.

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **§221.1. Proficiency Certificate Requirements.**

(a) The commission shall issue proficiency certificates in accordance with the Texas Occupations Code §1701.402. Commission certificates issued pursuant to section 1701.402 are neither required nor a prerequisite for establishing proficiency or training.

(b)[(a)] To qualify for proficiency certificates, applicants must meet all the following proficiency requirements:

- (1) submit any required application currently prescribed by the commission, requested documentation, and any required fee;
- (2) have an active license or appointment for the corresponding certificate (not a requirement for Mental Health Officer Proficiency, Retired Peace Officer and Federal Law Enforcement Officer Firearms Proficiency, Firearms Instructor Proficiency, Firearms Proficiency for Community Supervision Officers, Firearms Proficiency for Juvenile Probation Officers or Instructor Proficiency);
- (3) officers licensed after the effective date of this rule must not currently have license(s) under suspension by the Commission;
- (4) meet the continuing education requirements for the previous training cycle; and
- (5) for firearms related certificates, not be prohibited by state or federal law or rule from attending training related to firearms or from possessing a firearm.

(c)[(b)] The commission may refuse an application if:

- (1) an applicant has not been reported to the commission as meeting all minimum standards, including any training or testing requirements;
- (2) an applicant has not affixed any required signature;
- (3) required forms are incomplete;
- (4) required documentation is incomplete, illegible, or is not attached; or
- (5) an application contains a false assertion by any person.

(d)[(c)] The commission shall cancel and recall any certificate if the applicant was not qualified for its issue and it was issued:

- (1) by mistake of the commission or an agency; or
- (2) based on false or incorrect information provided by the agency or applicant.

(e)[(d)] If an application is found to be false, any license or certificate issued to the appointee by the commission will be subject to cancellation and recall.

(f)[(e)] Academic degree(s) must be issued by an accredited college or university.

(g)[(f)] The effective date of this section is January 14, 2010. [January 1, 2009.]

### **Current Rule**

#### **§221.1. Proficiency Certificate Requirements.**

(a) To qualify for proficiency certificates, applicants must meet all the following proficiency requirements:

- (1) submit any required application currently prescribed by the commission, requested documentation, and any required fee;
- (2) have an active license or appointment for the corresponding certificate (not a requirement for Mental Health Officer Proficiency, Retired Peace Officer and Federal Law Enforcement Officer Firearms Proficiency, Firearms Instructor Proficiency, Firearms Proficiency for Community Supervision Officers, or Instructor Proficiency);

## Proposed Order 10-18-221.1 Proficiency Certificate Requirements

- (3) officers licensed after the effective date of this rule must not currently have license(s) under suspension by the Commission;
  - (4) meet the continuing education requirements for the previous training cycle; and
  - (5) for firearms related certificates, not be prohibited by state or federal law or rule from attending training related to firearms or from possessing a firearm.
- (b) The commission may refuse an application if:
- (1) an applicant has not been reported to the commission as meeting all minimum standards, including any training or testing requirements;
  - (2) an applicant has not affixed any required signature;
  - (3) required forms are incomplete;
  - (4) required documentation is incomplete, illegible, or is not attached; or
  - (5) an application contains a false assertion by any person.
- (c) The commission shall cancel and recall any certificate if the applicant was not qualified for its issue and it was issued:
- (1) by mistake of the commission or an agency; or
  - (2) based on false or incorrect information provided by the agency or applicant.
- (d) If an application is found to be false, any license or certificate issued to the appointee by the commission will be subject to cancellation and recall.
- (e) Academic degree(s) must be issued by an accredited college or university.
- (f) The effective date of this section is January 1, 2009.

## **Proposed Order 10-19 § 211.16 Establishment of an Appointing Entity**

### **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code, by adding §211.16, Establishment of an Appointing Entity. Subsection (a) identifies the effective date for law enforcement agency applications. Subsection (b) identifies the specific information required for a law enforcement agency reporting number. Subsection (c) identifies the requirements for correctional facilities. Subsection (d) identifies the requirements for consolidated emergency telecommunications centers. Subsection (e) identifies the requirements for probation or parole departments. Subsection (f) is amended to reflect the effective date.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.163 from House Bill 3389, Section 7.

### **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive effect on state or local governments. Addition of this section will require that vital matters be considered before taking on the burden of adding an additional department of government. Those officials will have to consider several economic factors associated with establishing a law enforcement agency. This section will also facilitate agencies that employ licensees to apply for a reporting number to assist both the agency and the commission with tracking those licensees.

### **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be positive benefits to the public by making governmental entities aware of the various responsibilities that follow the creation of a law enforcement agency.

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there may be positive effect on small business, individuals, or both as a result of the proposed section as a new agency may have need of various goods and services in order to function.

### **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

### **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter

The rule amendment as proposed complies with Texas Occupations Code, Chapter 1701, Section 1701.163 Information Provided by Commissioning Entities.

No other code, article, or statute is affected by this proposal.

## Proposed Order 10-19 § 211.16 Establishment of an Appointing Entity

### Rule Draft:

#### § 211.16. Establishment of an Appointing Entity

(a) On or after September 1, 2009, an entity authorized by statute or by the constitution to create a law enforcement agency or police department and commission, appoint, or employ peace officers that first creates a law enforcement agency or police department and first begins to commission, appoint, or employ peace officers shall make application to the commission.

(b) On creation of the law enforcement agency or police department, and as part of the application process, the entity shall submit to the commission the current agency number, application form, any associated application fee, and information regarding:

(1) the need for the law enforcement agency or police department in the community;

(2) the funding sources for the law enforcement agency or police department;

(3) the physical resources available to officers;

(4) the physical facilities that the law enforcement agency or police department will operate, including descriptions of the evidence room, dispatch area, and public area;

(5) law enforcement policies of the law enforcement agency or police department, including policies on:

(A) use of force;

(B) vehicle pursuit;

(C) professional conduct of officers;

(D) domestic abuse protocols;

(E) response to missing persons;

(F) supervision of part-time officers; and

(G) impartial policing;

(6) the administrative structure of the law enforcement agency or police department;

(7) liability insurance; and

(8) any other information the commission requires by rule.

(c) An entity authorized by Local Government Code, §511.0092 to operate a correctional facility to house inmates, in this state, convicted of offenses committed against the laws of another state of the United States, and appoint jailers requiring licensure by the commission, may make application for an agency number by submitting the current agency number application form, any associated application fee, and a certified copy of the contract under which the facility will operate.

(d) A political subdivision wanting to establish a consolidated emergency telecommunications center and appoint telecommunicators, as required by Texas Occupations Code, §1701.405, may make application for an agency number by submitting the current agency number application form, any associated application fee and a certified copy of the consolidation contract.

(e) The Texas Department of Criminal Justice - Pardon and Parole Division, a community supervision and corrections department, or a juvenile probation department may make application for an agency number if seeking firearms training certificates for parole officers, community supervision and corrections officers, or juvenile probation officers by submitting the current agency number application form and any associated application fee.

(f) The effective date of this section is January 14, 2010.

# Proposed Order 10-18-221.35 Firearms Proficiency for Juvenile Probation Officers

## **Introduction:**

The Texas Commission on Law Enforcement Officer Standards and Education (Commission) proposes an amendment to Title 37, Texas Administrative Code by adding §221.35, Firearms Proficiency for Juvenile Probation Officers. Subsection (a) identifies the requirements for obtaining this proficiency certificate. Subsection (b) identifies the weapons proficiency requirements for juvenile probation officers. Subsection (c) identifies the expiration date for certificates issued under this section and stipulates requirements for renewal of the certificate for juvenile probation officers. Subsection (d) establishes the effective date of the amendments.

These amendments are necessary to incorporate the changes to Texas Occupations Code §1701.507 from House Bill 1237.

## **Fiscal Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there may be an effect on state or local governments as a result of administering this section. The Texas Juvenile Probation Commission may be required to replace currently scheduled training sessions with firearms training courses and purchase ammunition. The Texas Juvenile Probation Commission may also decide to pay the application fee for all Juvenile Probation Officers.

## **Public Benefit Cost Note:**

The Commission has determined that for each year of the first five years the section as proposed will be in effect, there will be a positive benefit to the public by ensuring that Juvenile Probation Officers are armed to protect themselves and others they come in contact with during their duties.

The Commission has also determined that there may be a positive economic impact for small businesses. With more people eligible for certification, those businesses offering weapons qualification may see an increase in business.

The Commission has determined that there may be a monetary cost and time investment to the individual to achieve this proficiency certificate, however there will be a positive benefit for the individual and the public by allowing trained Juvenile Probation Officers to be armed so they may protect themselves and others they come in contact with during their duties.

## **Request for Public Comment:**

Comments may be submitted electronically to [public.comment@tcleose.state.tx.us](mailto:public.comment@tcleose.state.tx.us) or in writing to Mr. Timothy A. Braaten, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, 6330 E Highway 290 STE 200 Austin, TX 78723-1035.

## **Statutory Authority**

The amendment is proposed under Texas Occupations Code, Chapter 1701, §1701.151, General Powers of the Commission; Rulemaking Authority, which authorizes the Commission to promulgate rules for administration of this chapter.

The rule amendment as proposed is in compliance with Texas Occupations Code, Chapter 1701, §1701.258 Firearms Training Program for Juvenile Probation Officers.

## **Proposed Order 10-18-221.35 Firearms Proficiency for Juvenile Probation Officers**

No other code, article, or statute is affected by this proposal.

### **Rule Draft**

#### **§221.35 Firearms Proficiency for Juvenile Probation Officers**

(a) To qualify for a firearms proficiency for juvenile probation officers certificate, an applicant must meet the following requirements, including:

(1) current employment as a juvenile probation officer by the Texas Juvenile Probation Commission; and

(2) successful completion of the commission's current firearms training program for juvenile probation officers.

(b) The holder of a certificate issued under this section must meet the firearms proficiency requirements at least once every 12 months.

(c) Certificates issued under this section expire two years from the date of issuance. Upon the expiration of a certificate, a juvenile probation officer may apply for the issuance of a renewal. Juvenile probation officers must meet the requirements in subsections (a)(1) and (b) of this section in order to renew the certificate.

(d) The effective date of this section is January 14, 2010.