

Proposed Amendments

Summary of Proposed Amendment 1: Rule 211.1

- The proposed amendment replaces "...that meets and exceeds..." with "using."

§211.1. Definitions.

- (a) The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise.

...

- (8) Background investigation: An investigation into an applicant's personal history ~~that meets or exceeds~~ using the commission-developed ~~questionnaire or~~ personal history statement.

Summary of Proposed Amendment 2: Rule 211.1

- The proposed amendment adds pretrial diversion to the definition of community supervision.

§211.1. Definitions.

- (a) The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise.

...

- (19) Community supervision: Any ~~court-ordered~~ community supervision or probation resulting from a deferred adjudication or conviction by a court of competent jurisdiction. ~~However, this does not include~~ This includes supervision resulting from a pretrial diversion.

Proposed Amendment 3: Rule 217.1

- Proposed amendment replaces “court ordered” with “convicted or placed on” to conform with Proposed Amendment No. 2.

§217.1. Minimum Standards for Enrollment and Initial Licensure.

(a) In order for an individual to enroll in any basic licensing course the provider must have on file documentation that the individual meets eligibility for licensure and:

- (1) a high school diploma;
- (2) a high school equivalency certificate; or
- (3) for the basic peace officer training course, an honorable discharge from the armed forces of the United States after at least 24 months of active duty service;

(b) The commission shall issue a license to an applicant who meets the following standards:

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(4) has never been convicted or placed on ~~court-ordered~~ community supervision or probation for any criminal offense above the grade of Class B misdemeanor or a Class B misdemeanor within the last ten years from the date of ~~the court order~~ disposition;

(5) is not currently charged with any criminal offense for which conviction would be a bar to licensure;

(6) has never been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years;

(7) has never been convicted or placed on community supervision or probation in any court of an offense involving family violence as defined under Chapter 71, Texas Family Code;

• • •

(17) is a U.S. citizen.

(c) For the purposes of this section, the commission will construe any ~~court-ordered~~ community supervision, probation or conviction for a criminal offense to be its closest equivalent under the Texas Penal Code classification of offenses if the offense arose from:

- (1) another penal provision of Texas law; or
- (2) a penal provision of any other state, federal, military or foreign jurisdiction.

Proposed Amendment 4: Rule 217.7

- Rewrite of current rule 217.7.

§217.7. Reporting Appointment and Separation of a Licensee.

- (a) Before a law enforcement agency may appoint a person licensed or seeking a license as a peace officer, county jailer, or telecommunicator the agency head or designee must:
- (1) obtain the person's written consent for the agency to view the person's employment records;
 - (2) Obtain a copy of the Person's Service Record (PSR) maintained by the commission;
 - (3) Obtain a completed, signed, and notarized commission approved Personal History Statement (PHS);
 - (4) Obtain a Computerized Criminal History (CCH) from TCIC and NCIC;
 - (5) Conduct and document a background investigation;
 - (6) For peace officers, obtain proof of weapons qualification within the 12 months preceding appointment;
 - (7) For current licensees, electronically request and obtain the F-5 Return (F5R) from the commission, contact each of the person's previous law enforcement employers, and document the contact on the F5 return;
 - (8) For a person's initial appointment, or for a licensee with more than 180 days since their last appointment:
 - (A) obtain a new declaration of psychological and emotional health (L3 Form);
 - (B) obtain a new declaration of the lack of any drug dependency or illegal drug use (L2 Form); and
 - (C) obtain a new declaration of a medical evaluation for peace officers and jailers.
 - (9) For a person's initial appointment, submit an application for license (L1 Form) and receive an approval of the application before the person discharges any duties related to the license sought; and
 - (10) For current licensees, submit a Statement of Appointment (L1 Form) within 7 days of the appointment.
- (b) When a person licensed by the commission separates from an agency, the agency shall, within 7 days after any local employment appeals are exhausted:
- (1) submit a Separation report (Form F5) to the commission;
 - (2) provide a copy to the licensee in a manner prescribed by Texas Occupations Code section 1701.452.
- (c) A law enforcement agency that is given a signed consent form shall make the

person's employment records available to a hiring law enforcement agency as authorized by Texas Occupations Code section 1701.451.

(d) An agency must retain records kept under this section while the person is appointed and for a minimum of five years after the licensee's separation date with that agency. The records must be maintained under the control of the agency head or designee in a format readily accessible to the commission.

Proposed Amendment 5: Rule 223.15

- Proposed amendment removes the third-time noncompliance provision to conform with current revocation rule.

§223.15. License Suspension.

- (a) Unless revocation is required, the commission may suspend a license or certificate for violating any provision of the Texas Occupations Code, Chapter 1701 or commission rule.
- (b) The license of a person charged with a felony and placed on community supervision shall be suspended for thirty years.
- (c) The license of a person convicted or placed on community supervision for any offense above the grade of Class C misdemeanor may be suspended for 10 years.
- (d) A suspension based on a Class A misdemeanor shall be at least 120 days.
- (e) A suspension based on a Class B misdemeanor shall be at least 60 days.
- (f) The license of a person who fails to comply with legislative continuing education requirements may be suspended:
 - (1) up to 90 days for first-time noncompliance; and
 - (2) up to 180 days for second-time noncompliance; ~~and~~
 - (3) ~~one year for third-time noncompliance.~~
- (g) The commission may suspend the license of a person who has previously received two written reprimands from the commission.
- (h) Factors the commission may consider in determining a term of suspension include:
 - (1) the seriousness of the conduct resulting in the arrest;
 - (2) the required mental state of the disposition offense;
 - (3) whether the disposition offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;
 - (4) the licensee's previous violations of commission statutes or rules;
 - (5) actual or potential harm to public safety, including personal injury and property damage, resulting from the conduct resulting in the arrest;
 - (6) aggravating evidence existing in a particular case; and
 - (7) evidence used in rebuttal to mitigating factors.
- (i) A suspension can begin no sooner than the date of the statute or rule violation.
- (j) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation.

Proposed Amendment 6: Rule 223.18

- Proposed amendment adds “through the executive director” and removes discretionary criteria for felony arrest suspensions.

§223.18. Suspension Following Felony Arrest.

- (a) The commission, through the executive director, may suspend the license of a person arrested or indicted for a felony offense which would constitute an immediate peril to the public health, safety or welfare if the person were to remain licensed during the pendency of criminal proceedings.
- (b) By virtue of their nature, the following felony arrests constitute immediate peril:
 - (1) Sexual offenses;
 - (2) Assaultive offenses; and
 - (3) ~~Offenses directly relating to the duties and responsibilities of any related office held by that person.~~ Offenses classified under Chapter 39 or section 31.03(f) of the Texas Penal Code,
- (c) ~~In determining whether any other felony arrest creates an immediate peril to the public health, safety or welfare, factors the commission may consider include:~~
 - (1) ~~the seriousness of the conduct resulting in the arrest;~~
 - (2) ~~the required mental state of the alleged offense;~~
 - (3) ~~whether the alleged offense contains an element of actual or threatened bodily injury or coercion against another person under the Texas Penal Code or the law of the jurisdiction where the offense occurred;~~
 - (4) ~~the licensee’s previous violations of commission statutes or rules;~~
 - (5) ~~actual or potential harm to public safety resulting from the conduct resulting in the arrest; and~~
 - (6) ~~aggravating circumstances existing in a particular case.~~
- (cd) If an offense constitutes immediate peril, the commission will notify the person of the summary suspension order and the intention to initiate proceedings.
- (de) If a person does not receive notice of the intent to initiate proceedings within 30 days of the commission’s order, the person may appeal to the Travis County district court.
- (ef) A person may request a hearing regarding the summary suspension within 20 days after the summary suspension order is received. Otherwise, the license may be suspended until final disposition of the case.
- (fg) The effective date of this section is February 1, 2016.

Proposed Amendment 7: Rule 215.10

- Proposed new rule sets out course instructor requirements.

§215.10 Course Instructor Requirements

(a) An instructor teaching a course must:

- (1) hold a valid instructor license;
- (2) certificate; or
- (3) be designated, in writing, as a subject matter expert in the course by the training coordinator.

(b) The instructor must:

- (1) ensure compliance with commission rules and guidelines;
- (2) prepare, maintain, and submit the reports of training within the time frame specified by the Training Coordinator;
- (3) be responsible for the administration and conduct of each course taught;
- (4) at a minimum, provide a complete lesson plan, clear learning objectives, instructor biography, approved class roster and original sign-in sheet, and course evaluation to the training coordinator for the training file;
- (5) enforce all attendance, retention, and other standards set by the commission or the training provider.
- (6) control the discipline and demeanor of each student during class;
- (7) distribute or present learning objectives to all students at the beginning of each course;
- (8) ensure that all learning objectives are taught and evaluated; and
- (9) proctor or supervise examinations to ensure fair, honest results.