

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) adopts amended 37 Texas Administrative Code §211.27, Reporting Responsibilities of Individuals, §211.28, Responsibility of a Law Enforcement Agency to Report an Arrest, and §211.29, Responsibilities of Agency Chief Administrators, without changes to the proposed text as published in the January 31, 2025 issue of the *Texas Register* (50 TexReg 639-640). The rules will be republished.

These adopted amended rules remove the requirement of licensees and appointing law enforcement agencies to report to the Commission any arrests, pending criminal charges, or criminal dispositions. These adopted amended rules clarify that an arresting agency should provide offense reports and charging documents for licensees that are arrested or charged to the Commission. These adopted amended rules also require law enforcement agencies to report to the Commission the failure by an applicant or licensee of a medical examination (L-2), psychological examination (L-3), fitness-for-duty examination (FFDE), or drug screen, which conforms with the addition of Texas Occupations Code §1701.167 made by Senate Bill 1445 (88R).

The public comment period began on January 31, 2025, and ended on March 4, 2025, at the conclusion of the public meeting of the Commission. One public comment was received.

Public Comment: Deputy Executive Director Jennifer Szimanski of the Combined Law Enforcement Associations of Texas suggested adding successful completion of an applicable treatment program by the licensee as an exception to the requirement of a chief administrator to report a failed psychological examination (L-3) because the exception is listed in Occupations Code §1701.167(a)(3).

Commission Response: Occupations Code §1701.167(a)(3) requires “reporting to the commission...of a license holder’s failed examination, unless the license holder submits to and successfully completes an applicable treatment program within a reasonable time.” In context with the rest of §1701.167(a), this refers to a fitness-for-duty examination (FFDE) and not a psychological examination (L-3). The advisory committees established to provide input on the model policies required by Occupations Code §1701.167 also did not suggest that an applicable treatment program applied to a failed psychological examination (L-3), but determined it only applied to a failed fitness-for-duty examination (FFDE).

The amended rules are adopted under Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.153, Reports from Agencies and Schools, §1701.167, Policy Regarding Examination of a License Holder or Applicant, and §1701.306, Psychological and Physical Examination. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.153 requires the Commission to establish reporting standards and procedures for matters the Commission considers necessary for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.167 requires the reporting to the Commission of a failed examination. Texas Occupations Code §1701.306 requires the Commission to adopt rules to establish appropriate standards and measures to be used by a law enforcement agency in reporting medical (L-2) and psychological (L-3) examinations.

The amended rules as adopted affect or implement Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.153, Reports from Agencies and Schools, §1701.167, Policy Regarding Examination of a License Holder or Applicant, and §1701.306, Psychological and Physical Examination. No other code, article, or statute is affected by this adoption.

The adopted amended rules have been reviewed by legal counsel and found to be a valid exercise of the Commission's legal authority.

§211.27. Reporting Responsibilities of Individuals.

(a) Within thirty days, a licensee or person meeting the requirements of a licensee shall report to the commission:

- (1) any name change;
- (2) a permanent mailing address other than an agency address;
- (3) all subsequent address changes; and
- (4) receipt of a dishonorable discharge from the armed forces of the United States.

(b) The effective date of this section is May 1, 2025.

§211.28. Responsibility of a Law Enforcement Agency to Report an Arrest.

(a) When an agency receives information that it has arrested or charged a licensee for any offense above a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, the chief administrator or their designee must report such arrest to the commission in the format currently prescribed by the commission within 30 business days of notice of the arrest, including the:

- (1) name, date of birth and PID of licensee (if available);
- (2) name, address, and telephone number of the arresting agency;
- (3) date and nature of the arrest;
- (4) arresting agency incident, booking, or arrest number;
- (5) name, address, and telephone number of the court in which such charges are filed or such arrest is filed; and
- (6) copies of all related offense reports and charging documents.

(b) The effective date of this section is May 1, 2025.

§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 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.

(c) An agency chief administrator must comply with the appointment and retention requirements under Texas Occupations Code, Chapter 1701.

- (d) 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.
- (e) An agency chief administrator must report, in a standard format, incident-based data compiled in accordance with Texas Occupations Code §1701.164.
- (f) Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.
- (g) An agency chief administrator has an obligation to determine that all appointees are able to safely and effectively perform the essential job functions. An agency chief administrator may require a fit for duty review upon identifying factors that indicate an appointee may no longer be able to perform job-related functions safely and effectively. These factors should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical or psychological condition or impairment.
- (h) An agency chief administrator shall notify the commission of any failed medical (L-2) or psychological (L-3) examination within 30 days on a form prescribed by the commission. An agency chief administrator shall notify the commission upon a final determination of a failed fit-for-duty examination (FFDE) or drug screen within 30 days on a form prescribed by the commission.
- (i) An agency must provide training on employment issues identified in Texas Occupations Code §1701.402 and field training.
- (j) An agency must provide continuing education training required in Texas Occupations Code §1701.351 and §1701.352.
- (k) 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.
- (l) An agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.
- (m) An agency must notify the commission electronically following the requirements of Texas Occupations Code §1701.452, when a person under appointment with that agency resigns or is terminated.
- (n) 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.
- (o) 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.
- (p) An agency chief administrator may not appoint an applicant subject to pending administrative action based on:
- (1) enrollment or licensure ineligibility; or
 - (2) statutory suspension or revocation.
- (q) The effective date of this section is May 1, 2025.