

SUMMARY OF PROPOSED RULE

37 Tex. Admin. Code § 211.30. *Chief Administrator Responsibilities for Misdemeanor Waivers.*

The proposed amendment would allow chief administrators to request a waiver for individuals with a disqualifying Class C misdemeanor offense. It also clarifies and streamlines the process for the Commission to approve or deny a waiver request.

RESUMEN DE LA NORMA PROPUESTA

37 Tex. Admin. Code § 211.30. *Responsabilidades del Administrador Principal para las Exenciones por Delitos Menores.*

La enmienda propuesta permitiría a los administradores principales solicitar una exención para individuos con un delito menor descalificante de Clase C. Además, aclara y agiliza el proceso mediante el cual la Comisión puede aprobar o rechazar una solicitud de exención.

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §211.30, Chief Administrator Responsibilities for Misdemeanor Waivers. The proposed amended rule would allow chief administrators to request a waiver of the minimum standards for enrollment or initial licensure in 37 Texas Administrative Code §217.1 for individuals that have been convicted or placed on community supervision for a disqualifying Class C misdemeanor offense. The proposed amended rule also clarifies and streamlines the process for the Commission to approve or deny a waiver request, which allows the Executive Director to approve or deny a waiver request and allows a chief administrator to appeal a denied waiver request to the Commissioners.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of enforcing or administering the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be a positive benefit to the public by clarifying and streamlining the process for approving or denying a waiver request. There will be no anticipated economic costs to persons required to comply with the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no adverse economic effects to small businesses, microbusinesses, or rural communities as a result of implementing the proposed amendment.

Mr. Beauchamp has determined that for each year of the first five years this proposed amended rule will be in effect, there will be no effects to a local economy as a result of implementing the proposed amendment.

Mr. Beauchamp has determined the following:

(1) the proposed rule does not create or eliminate a government program;

- (2) implementation of the proposed rule does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rule does not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rule does not require an increase or decrease in fees paid to the agency;
- (5) the proposed rule does not create a new regulation;
- (6) the proposed rule does expand an existing regulation by expanding the classes of offenses for which a waiver may be sought to include Class C misdemeanors, but does not limit or repeal an existing regulation;
- (7) the proposed rule does increase the number of individuals subject to the rule's applicability by expanding the classes of offenses for which a waiver may be sought to include Class C misdemeanors; and
- (8) the proposed rule does not positively or adversely affect this state's economy.

The Commission is requesting comments regarding the proposed amended rule and information related to the cost, benefit, or effect of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rule or any other interested person. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments and information may be submitted electronically to public.comment@tcole.texas.gov or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority. No other code, article, or statute is affected by this proposal.

The proposed amended rule has been reviewed by legal counsel and has been found to be within the Commission's authority to adopt.

§211.30. Chief Administrator Responsibilities for Misdemeanor~~[Class A and B]~~ Waivers.

- (a) A chief administrator may request the executive director to consider~~[that]~~ an individual ~~[be considered]~~ for a waiver of ~~[either]~~ the minimum standards for enrollment or initial licensure requirements regarding an otherwise disqualifying ~~[Class A or B]~~ misdemeanor conviction or placement on community supervision~~[deferred adjudication]~~.~~[An individual is eligible for one waiver request. This request must be submitted at least 45 days prior to a regularly scheduled commission meeting.]~~
- (b) A chief administrator is eligible to apply for a waiver five years after the date of the individual's conviction or placement on community supervision.
- (c) The request must include:

- (1) a complete description of the following mitigating factors:
 - (A) the applicant's history of compliance with the terms of community supervision;
 - (B) the applicant's continuing rehabilitative efforts not required by the terms of community supervision;
 - (C) the applicant's employment record;
 - (D) 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;
 - (E) the required mental state of the disposition offense;
 - (F) whether the conduct resulting in the arrest resulted in the loss of or damage to property or bodily injury;
 - (G) the type and amount of restitution made by the applicant;
 - (H) the applicant's prior community service;
 - (I) the applicant's present value to the community;
 - (J) the applicant's post-arrest accomplishments;
 - (K) the applicant's age at the time of arrest; and
 - (L) the applicant's prior military history;
 - (2) all court and community supervision documents;
 - (3) the applicant's statement;
 - (4) all offense reports;
 - (5) victim(s) statement(s), if applicable;
 - (6) letters of recommendation;
 - (7) statement(s) of how the public or community would benefit;
 - (8) chief administrator's written statement of intent to hire the applicant as a full time employee;
 - (9) the applicant's personal history statement; and
 - (10) the agency's background investigation report of the applicant.
- (d) Commission staff will review the request and notify the chief administrator if the request is incomplete. The chief administrator must provide any missing documents before the request can be considered complete~~[scheduled for a commission meeting]~~.~~[Once a completed request is received, it will be placed on the agenda of a regularly scheduled commission meeting.]~~
- (e) The Executive Director may approve or deny a completed waiver request. If approved, the Executive Director will present the waiver request to the commissioners for ratification at the next public meeting. If denied, the chief administrator may appeal to the commissioners for consideration at a public meeting.
- ~~(f)[(e)]~~ The chief administrator will be notified of the meeting date and must be present to present the request to the commissioners. The applicant must be present at the meeting to answer questions about the request. Staff will present a report on the review process.
- ~~[(f) After hearing the request, the commissioners will make a decision and take formal action to approve or deny the request.]~~
- (g) If granted, a waiver is issued in the name of the applicant chief administrator, belongs to the sponsoring agency, is nontransferable without approval, and is without effect upon the subject's separation from the sponsoring agency~~[employment]~~. If separated and in the event of subsequent prospective law enforcement employment, a person may seek another waiver through the prospective hiring agency's chief administrator.
- (h) The effective date of this section is April 1, 2026~~[August 1, 2025]~~.