SUMMARY OF PROPOSED RULE

37 Tex. Admin. Code § 217.1. *Minimum Standards for Enrollment and Initial Licensure*.
The proposed amended rule would be part of a reorganization and simplification of Chapter 217 of the Commission's rules. Enrollment and appointment processes would be moved to Commission Rules 217.3 and 217.5, respectively.

RESUMEN DE LA NORMA PROPUESTA

37 Tex. Admin. Code § 217.1. *Requisitos mínimos para la inscripción y la obtención de la licencia inicial.*
La norma enmendada propuesta formaría parte de una reorganización y simplificación del Capítulo 217 del reglamento de la Comisión. Los procesos de inscripción y nombramiento se trasladarían a las Reglas 217.3 y 217.5 de la Comisión, respectivamente.

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §217.1, Minimum Standards for Enrollment and Initial Licensure. This proposed amended rule is part of the proposed reorganization and clarification of Chapter 217, concerning Enrollment, Licensing, Appointment, and Separation. It would remove outdated enrollment, licensing, and appointment language, would move enrollment and appointment processes to other relevant rules, and would clarify the language of this rule. The proposed new rule would also incorporate current Commission practices, including the requirement of the supplemental peace officer course and any other required training for out-of-state reciprocity. Some of these proposed changes were recommended by the Texas Regulatory Efficiency Office within the Office of the Governor.

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 rule.

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 reorganizing and clarifying Chapter 217 for ease of understanding. There will be no anticipated economic costs to persons required to comply with the proposed rule.

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 rule.

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 rule.

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 not expand, limit, or repeal an existing regulation;
(7) the proposed rule does not increase or decrease the number of individuals subject to the rule's applicability; 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 §1701.1524, Rules Relating to Consequences of Criminal Conviction or Deferred Adjudication, Texas Occupations Code §1701.251, Training Programs; Instructors, and Texas Occupations Code §1701.253, School Curriculum. 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 competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator. Texas Occupations Code §1701.1524 requires the Commission to adopt rules listing offenses for which a conviction or deferred adjudication would constitute grounds to take Commission action. Texas Occupations Code §1701.251 requires the Commission to establish and maintain training programs for the licensure of officers, county jailers, and telecommunicators. Texas Occupations Code §1701.253 requires the Commission to establish minimum curriculum requirements for training programs.

The amended rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, Texas Occupations Code §1701.1524, Rules Relating to Consequences of Criminal Conviction or Deferred Adjudication, Texas Occupations Code §1701.251, Training Programs; Instructors, and Texas Occupations Code §1701.253, School Curriculum. 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.

§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, acceptable to the Commission, that the individual meets eligibility for licensure.~~]

(a)[~~(b)~~] The commission shall issue a license to a person[~~an applicant~~] who meets the following minimum standards for enrollment and initial licensure:

(1) minimum age requirement:

(A) for peace officers[~~ and public security officers~~], is 21 years of age,[~~;~~] or 18 years of age if the applicant has received:

(i) an associate's degree,[~~;~~] or 60 semester hours of credit from an accredited college or university; or

(ii) has received an honorable discharge from the armed forces of the United States after at least two years of active service;

(B) for jailers and telecommunicators is 18 years of age;

(2) minimum educational requirements:

(A) has passed a general educational development (GED) test indicating high school graduation level;

(B) holds a high school diploma; or

(C) for enrollment purposes in a basic peace officer academy only, has an honorable discharge from the armed forces of the United States after at least 24 months of active duty service;

[~~(3) is fingerprinted and is subjected to a search of local, state and U.S. national records and fingerprint files to disclose any criminal record;~~]

(3)[~~(4)~~] has never been convicted of 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~~];

(4) has not been convicted of or placed on court-ordered community supervision or probation for a Class B misdemeanor within the last ten years from the date of the court order;

(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;~~]

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

(7)[~~(8)~~] for peace officers, is not prohibited by state or federal law from operating a motor vehicle;

(8)[~~(9)~~] for peace officers, is not prohibited by state or federal law from possessing firearms or ammunition;

[~~(10) has been subjected to a background investigation completed by the enrolling or appointing entity into the applicant's personal history. A background investigation shall include, at a minimum, the following:~~

~~(A) An enrolling entity shall:~~

~~(i) require completion of the Commission-approved personal history statement; and~~

~~(ii) verify that the applicant meets each individual requirement for licensure under this rule based on the personal history statement and any other information known to the enrolling entity; and~~

~~(iii) contact all previous enrolling entities.~~

~~(B) In addition to subparagraph (A) of this paragraph, a law enforcement agency or law enforcement agency academy shall:~~

~~(i) require completion of the Commission-approved personal history statement; and~~

~~(ii) meet all requirements enacted in Occupations Code 1701.451, including submission to the Commission of a form confirming all requirements have been met. An in-person review of personnel records is acceptable in lieu of making the personnel records available electronically if a hiring agency and a previous employing law enforcement agency mutually agree to the in-person review.~~]

(9)[~~(11) examined by a physician, selected by the appointing or employing agency, who is licensed by the Texas Medical Board. The physician must be familiar with the duties appropriate to the type of license sought and appointment to be made. The appointee must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of appointment by the agency to be~~]on a form and in the manner prescribed by the commission, has been declared by a physician, who is licensed by the Texas Medical Board and selected by the enrolling entity or sponsoring law enforcement agency, to:

(A) be physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought; and

(B) show no trace of drug dependency or illegal drug use after a blood test or other medical test;[~~and~~

~~(C) for the purpose of meeting the requirements for initial licensure, an individual's satisfactory medical exam that is conducted as a requirement of a basic licensing course may remain valid for 180 days from the individual's date of graduation from that academy, if accepted by the appointing agency;~~]

(10)[~~(12)~~] on a form and in the manner prescribed by the Commission, has been declared by a psychologist, who is licensed by the Texas State Board of Examiners of Psychologists and selected by the enrolling entity or sponsoring law enforcement agency, or a psychiatrist, who is licensed by the Texas Medical Board and selected by the enrolling entity or sponsoring law enforcement agency, to be in satisfactory psychological and emotional health to serve as the type of licensee for the license sought;[~~examined by a psychologist, selected by the appointing, employing agency, or the academy, who is licensed by the Texas State Board of Examiners of Psychologists. This examination may also be conducted by a psychiatrist licensed by the Texas Medical Board. The psychologist or psychiatrist must be familiar with the duties appropriate to the type of license sought. The individual must be declared by that professional, on a form prescribed by the commission, to be in satisfactory psychological and emotional health to serve as the type of officer for which the license is sought. The examination must be conducted pursuant to professionally recognized standards and methods. The examination process must consist of a review of a job description for the position sought; review of any personal history statements; review of any background documents; at least two instruments, one which measures personality traits and one which measures psychopathology; and a face to face interview conducted after the instruments have been scored. The appointee must be declared by that professional, on a form prescribed by the commission, within 180 days before the date of the appointment by the agency;~~

~~(A) the commission may allow for exceptional circumstances where a licensed physician performs the evaluation of psychological and emotional health. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; or~~

~~(B) the examination may be conducted by qualified persons identified by Texas Occupations Code § 501.004. This requires the appointing agency to request in writing and receive approval from the commission, prior to the evaluation being completed; and~~

~~(C) for the purpose of meeting the requirements for initial licensure, an individual's satisfactory psychological exam that is conducted as a requirement of a basic licensing course may remain valid for 180 days from the individual's date of graduation from that academy, if accepted by the appointing agency;~~]

(11)[~~(13)~~] has never received a dishonorable discharge from the armed forces of the United States;

(12)[~~(14)~~] has not had a commission or out-of-state license denied by final order or revoked;

(13)[~~(15)~~] does not currently have a commission or out-of-state license suspended or surrendered[~~is not currently on suspension, or does not have a surrender of license currently in effect~~];

(14)[~~(16)~~] for initial licensure, has met[~~meets~~] the minimum training standards and passed[~~passes~~] the commission licensing examination for the[~~each~~] license sought; and

(15)[~~(17)~~] is a U.S. citizen or is a legal permanent resident of the United States, if the person is an honorably discharged veteran of the armed forces of the United States with at least two years of service before discharge and presents evidence satisfactory to the commission that the person has applied for United States citizenship.

(b)[~~(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 another penal provision of Texas law or a penal provision of any other state, federal, military, or foreign jurisdiction. A classification of an offense as a felony at the time of conviction or placement on community supervision or probation will never be changed because Texas law has changed or because the offense would not be a felony under current Texas laws.[~~:~~

~~(1) another penal provision of Texas law; or~~

~~(2) a penal provision of any other state, federal, military or foreign jurisdiction.~~]

(c)[~~(d)~~] For the purposes of this section, "closest equivalent" means the higher grade of offense after determining either:[~~A classification of an offense as a felony at the time of conviction will never be changed because Texas law has changed or because the offense would not be a felony under current Texas laws.~~]

(1) the offenses under comparison are substantially similar because of a high degree of likeness between their elements; or

(2) the potential, not actual, punishment attached under foreign or out-of-state law would be equal or greater than the potential punishment for a disqualifying offense under Texas law.

(d)[~~(e)~~] The minimum training standards and examination requirement that a person must meet are[~~A person must meet the training and examination requirements~~]:

(1) [~~training~~]for the peace officer license[~~consists of~~]:

(A) the current basic peace officer course[~~course(s)~~];

(B) a commission-recognized[~~commission-recognized~~], POST-developed[~~POST-developed~~], basic law enforcement training course, to include:

(i) out-of-state[~~out of state~~] licensure or certification;[~~and~~]

(ii) submission of the current eligibility application and fee; and

(iii) within 180 days of the approval of the eligibility application, completion of a supplemental peace officer course and any other training required by the commission; or

(C) a commission-approved[~~commission-approved~~] academic alternative program, taken through a licensed academic alternative provider and at least an associate's degree;[~~.~~]

(2) [~~training~~]for the jailer license,[~~consists of~~] the current basic county corrections course[~~course(s)~~] or training recognized under Texas Occupations Code § 1701.310[~~§1701.310~~];

[~~(3) training for the public security officer license consists of the current basic peace officer course(s);~~]

(3)[~~(4) training~~] for the telecommunicator license,[~~ consists of~~] the current basic telecommunicator licensing course; and

(4)[~~(5)~~] passing any examination required for the license sought while the exam approval remains valid.

(e)[~~(f)~~] On receipt of an application for a provisional license by an applicant who is a military service member, military veteran, or military spouse, the commission shall promptly issue a provisional license, consistent with Texas Occupations Code § 55.004.

(1) The applicant must:

(A) hold a current license issued by another state that is similar in scope of practice to the license applied for in this state and is in good standing with the other state's licensing authority; or

(B) within the five years preceding the application date have held the license in this state.

(2) A provisional license may not be reissued and expires on the earliest of:

(A) the date the commission issues a license to the provisional license holder;

(B) the date the applicant is determined to not meet the minimum standards for enrollment or initial licensure; or

(C) the 180th day after the date the provisional license is issued.

(f)[~~(g)~~] The commission may issue a provisional license, consistent with Texas Occupations Code § 1701.311[~~§1701.311~~], to an agency for a person to be appointed by that agency. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a provisional license. A provisional license is issued in the name of the applicant; however, it is issued to and shall remain in the possession of the agency. Such a license may neither be transferred by the applicant to another agency, nor transferred by the agency to another applicant. A provisional license may not be reissued and expires:

(1) 12 months from the original appointment date;

(2) on leaving the appointing agency; or

(3) on failure to comply with the terms stipulated in the provisional license approval.

(g)[~~(h)~~] The commission may issue a temporary jailer license, consistent with Texas Occupations Code § 1701.310[~~§1701.310~~]. A jailer appointed on a temporary basis shall be enrolled in a basic jailer licensing course on or before the 90th day after their temporary appointment. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a temporary jailer license. A temporary jailer license may not be renewed, except that the sheriff may petition the commission to extend the temporary appointment for a period not to exceed six months. A temporary jailer license expires:

(1) 12 months from the original appointment date;

(2) at the end of a six-month extension, if granted; or

(3) on completion of training and passing of the jailer licensing examination.

(h)[~~(i)~~] A person who has previously been issued a temporary jailer license and separated from that position may be subsequently appointed on a temporary basis as a county jailer at the same or a different county jail only if the person was in good standing at the time the person separated from the position.

(i)[~~(j)~~] A person who has cumulatively served as a county jailer on a temporary basis for two years may continue to serve for the remainder of that temporary appointment, not to exceed the first

anniversary of the date of the most recent appointment. The person is not eligible for an extension of that appointment or for a subsequent appointment on a temporary basis as a county jailer at the same or a different county jail until the first anniversary of the date the person separates from the temporary appointment during which the person reached two years of cumulative service.

(j)[~~(k)~~] A person whose county jailer license has become inactive may be appointed as a county jailer on a temporary basis.

(k)[~~(l)~~] The commission may issue a temporary telecommunicator license, consistent with Texas Occupations Code § 1701.405[~~§1701.405~~]. An agency must submit all required applications currently prescribed by the commission and all required fees before the individual is appointed. Upon the approval of the application, the commission will issue a temporary telecommunicator license. A temporary telecommunicator license expires:

(1) 12 months from the original appointment date; or

(2) on completion of training and passing of the telecommunicator licensing examination. On expiration of a temporary license, a person is not eligible for a new temporary telecommunicator license for one year.

(l)[~~(m)~~] A person who has not met all minimum standards is ineligible for a license. A license that has been issued to an ineligible person shall be cancelled or recalled.[~~A person who fails to comply with the standards set forth in this section shall not accept the issuance of a license and shall not accept any appointment. If an application for licensure is found to be false or untrue, it is subject to cancellation or recall.~~]

(m)[~~(n)~~] The effective date of this section is January 1, 2027[~~June 1, 2026~~].