

SUMMARY OF PROPOSED RULE

37 Tex. Admin. Code § 223.20. *Emergency Suspension for Imminent Threat.*

The proposed new rule would permit the Commission to suspend for not more than 90 days the license of a person that constitutes an imminent threat to the public health, safety, or welfare. This rule would only apply if a chief administrator is the person that constitutes an imminent threat or if a chief administrator is unable to fulfill their obligation to make a fitness-for-duty determination under Commission Rule 211.29.

RESUMEN DE LA NORMA PROPUESTA

37 Tex. Admin. Code § 223.20. *Suspensión de emergencia por amenaza inminente.*

La nueva norma propuesta permitiría a la Comisión suspender por un plazo máximo de 90 días la licencia de una persona que represente una amenaza inminente para la salud, la seguridad o el bienestar públicos. Esta norma solo se aplicaría si la persona que representa la amenaza inminente es un administrador jefe o si este no puede cumplir con su obligación de determinar la aptitud para el servicio conforme a la Regla 211.29 de la Comisión.

PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) proposes new 37 Texas Administrative Code §223.20, Emergency Suspension for Imminent Threat. The proposed new rule conforms with the addition of Texas Occupations Code §1701.5011 made by Senate Bill 1445 (88R). It would permit the Commission to suspend for not more than 90 days the license of a person that constitutes an imminent threat to the public health, safety, or welfare. It would only apply if a chief administrator is the person that constitutes an imminent threat or if the chief administrator is unable to fulfill their obligation to make a fitness-for-duty determination under 37 Texas Administrative Code §211.29. A non-exclusive list of possible indications of imminent threat is included in the proposed new rule.

Mr. John P. Beauchamp, General Counsel, has determined that for each year of the first five years this proposed new 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 proposal.

Mr. Beauchamp has determined that for each year of the first five years this proposed new rule will be in effect, there will be a positive benefit to the public by conforming with Texas Occupations Code §1701.5011. There will be no anticipated economic costs to persons required to comply with the proposal.

Mr. Beauchamp has determined that for each year of the first five years this proposed new 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 proposal.

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

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 new rule and information related to the cost, benefit, or effect of the proposed new rule, including any applicable data, research, or analysis, from any person required to comply with the proposed new 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 new rule is proposed pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, and Texas Occupations Code §1701.5011, Emergency Suspension. 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. Texas Occupations Code §1701.5011 requires the Commission to adopt rules to suspend for not more than 90 days the license of a person that constitutes an imminent threat to the public health, safety, or welfare.

The new rule as proposed affects or implements Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, and Texas Occupations Code §1701.5011, Emergency Suspension. No other code, article, or statute is affected by this proposal.

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

§223.20. Emergency Suspension for Imminent Threat.

(a) Only if a chief administrator is the person that constitutes an imminent threat, or is unable to fulfill their obligation to make a determination under §211.29(i) of this title (relating to Responsibilities of Agency Chief Administrators), then the commission shall determine whether an imminent threat exists.

(b) The commission, through the executive director, may suspend the license of a person that constitutes an imminent threat to the public health, safety, or welfare if the person were to remain licensed.

(c) Indications of imminent threat include evidence that they are currently a danger to themselves or others, such as:

(1) law enforcement intervention documenting an imminent threat;

(2) voluntary admission to an inpatient mental health facility related to homicidal or suicidal ideations;

(3) commitment under Texas Health and Safety Code Chapters 573 or 574; or

(4) adjudicated as a mental defective.

(d) If the commission determines that an imminent threat exists, the commission will issue an order suspending the person's license for no more than 90 days. Not later than the 10th day after the order is issued, the commission will request a hearing with the State Office of Administrative Hearings.

(e) The effective date of this section is September 1, 2026.