

# Texas Commission on Law Enforcement Officer Standards and Education



## Rules Handbook as of October 5, 2008

This Handbook Contains:

Texas Administrative Code

Title 37 - Public Safety

Part VII - Texas Commission on Law Enforcement

Officer Standards and Education

*(recently changed sections are marked with a "▲" by the page number)*

Texas Occupations Code

Title 10. Occupations Related to Law Enforcement and Security

Chapter 1701. Law Enforcement Officers

Cross-Matching Tables for Commission Rules and OC/GC Sections

*Note: The official text of the Commission's rules can be obtained from the Texas Administrative Code and the applicable editions of the Texas Register.*

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**Texas Administrative Code**  
**Title 37. Public Safety**  
**Part VIII. Texas Commission On Law Enforcement**  
**Officer Standards And Education**

**§211.1. Definitions.**

- (a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.
- (1) **Academic provider**--A school, accredited by the Southern Association of Colleges and Schools and the Texas Higher Education Coordinating Board, which has been approved by the commission to provide basic licensing courses.
  - (2) **Academic alternative program**--A program for college credit offered by a training provider recognized by the Southern Association of Colleges and Schools and the Higher Texas Education Board, authorized by the commission to conduct preparatory law enforcement training as part of a degree plan program, and consisting of commission-approved curricula.
  - (3) **Accredited college or university**--An institution of higher education that is accredited or authorized by the Southern Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the New England Association of Schools and Colleges, the North Central Association of Colleges and Schools, the Northwest Commission on Colleges and Universities, or the Western Association of Schools and Colleges.
  - (4) **Active**--A license issued by the commission that meets the current requirements of licensure and training as determined by the Commission.
  - (5) **Agency**--A law enforcement unit or other entity, whether public or private, authorized by Texas law to appoint a person licensed or certified by the commission.
  - (6) **Administrative Law Judge (ALJ)**--An administrative law judge appointed by the chief administrative law judge of the State Office of Administrative Hearings.
  - (7) **Alternative delivery**--A learning event characterized by a separation of place or time between the instructor and student, the students, and/or the student and learning resources; and in which the interaction between these is conducted through one or more media.
  - (8) **Appointed**--Elected or commissioned by an agency as a peace officer, reserve or otherwise selected or assigned to a position governed by the Occupations Code, Chapter 1701, without regard to pay or employment status.
  - (9) **Background investigation**--A pre-employment background investigation that is designed to satisfy:
    - (A) that an applicant is in compliance with all minimum standards for employment, and
    - (B) that an applicant is screened out, who, based on their past history or other relevant information, is found to be unsuitable for the position in question.
    - (C) The background investigation consists of a report that documents, but is not limited to the following:
      - (i) A review of all previous law enforcement employment, including contacting all former law enforcement employers,
      - (ii) an investigation looking specifically at a person's dependability; integrity; initiative; situational reasoning ability; self-control; writing skills; reading skills; oral communications skills; interpersonal skills; and physical ability; and
      - (iii) a report that documents an investigation into an applicant's suitability for licensing and appointment which includes: biographical data; scholastic data; employment data; criminal history data; interviews

with references, supervisors, and other people who have knowledge of the person's abilities, skills, and character; and a summary of the investigator's findings and conclusions regarding the applicant's moral character and suitability.

- (10) **Basic licensing course**--Any current commission developed course that is required before an individual may be licensed by the commission.
- (11) **Basic peace officer course**--The current commission developed course(s) required for licensing as a peace officer, taught at a licensed law enforcement academy in accordance with commission requirements.
- (12) **Certified copy**--A true and correct copy of a document or record certified by the custodian of records of the submitting entity.
- (13) **Chief administrator**--The head or designee of a law enforcement agency.
- (14) **Commission**--The Texas Commission on Law Enforcement Officer Standards and Education.
- (15) **Commissioned**--Has been given the legal power to act as a peace officer or reserve, whether elected, employed, or appointed.
- (16) **Commissioners**--The nine commission members appointed by the governor and, where appropriate, the five ex-officio members.
- (17) **Contract jail**--A correctional facility, operated by a county, municipality or private vendor, operating under a contract with a county or municipality, to house inmates convicted of offenses committed against the laws of another state of the United States, as provided by Texas Government Code, §511.0092.
- (18) **Contractual training provider**--A law enforcement agency, a law enforcement association, alternative delivery trainer, or proprietary training contractor that conducts specific education and training under a contract with the commission.
- (19) **Convicted**--Has been adjudged guilty of or has had a judgment of guilt entered in a criminal case that has not been set aside on appeal, regardless of whether:
  - (A) the sentence is subsequently probated and the person is discharged from probation;
  - (B) the charging instrument is dismissed and the person is released from all penalties and disabilities resulting from the offense; or
  - (C) the person is pardoned, unless the pardon is expressly granted for subsequent proof of innocence.
- (20) **Court-ordered 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 supervision resulting from a pretrial diversion.
- (21) **Distance education**--The enrollment and study with an educational institution, which provides lesson materials prepared in a sequential and logical order for study by students on their own.
- (22) **Duty ammunition**--Ammunition required or permitted by the agency to be carried on duty.
- (23) **Endorsement**--An official document stating that an individual has met the minimum training standards appropriate to the type of examination sought as determined by the Commission.
- (24) **Executive director**--The executive director of the commission or any individual authorized to act on behalf of the executive director.
- (25) **Experience**--Includes each month, or part thereof, served as a peace officer, reserve, jailer, telecommunicator, or federal officer. Credit may, at the discretion of the executive director, be awarded for relevant experience from an out-of-state agency.
- (26) **Firearms**--Any handgun, shotgun, precision rifle, patrol rifle, or fully automatic weapon that is carried by the individual officer in an official capacity.

- (27) **Firearms proficiency**--Successful completion of the annual firearms proficiency requirements.
- (28) **Field training program**--A program intended to facilitate a transition from the academic setting to the performance of the general duties of the appointing agency.
- (29) **Governing body resolution**--A formal expression or action by a governing body authorizing a particular act, transaction, appointment, intention, or decision.
- (30) **High school diploma**--High school diploma is a document issued by a school district or a school accredited by the Texas Private School Accreditation Commission verifying that the recipient has successfully completed the course of study prescribed by the school district and accepted by the Texas Education Agency.
- (31) **Individual**--A human being who has been born and is or was alive.
- (32) **Jailer**--A person employed or appointed as a jailer under the provisions of the Local Government Code, §85.005, or Government Code §511.0092.
- (33) **Killed in the line of duty**--A death that is the directly attributed result of a personal injury sustained in the line of duty.
- (34) **Law**--Including, but not limited to, the constitution or a statute of this state, or the United States; a written opinion of a court of record; a municipal ordinance; an order of a county commissioners' court; or a rule authorized by and lawfully adopted under a statute.
- (35) **Law enforcement academy**--A school operated by a governmental entity that has been licensed by the commission, which may provide basic licensing courses and continuing education.
- (36) **Law enforcement automobile for training**--A vehicle equipped to meet the requirements of an authorized emergency vehicle as identified by Transportation Code §546.003 and §547.702. (37) **Lesson plan**--Detailed guides from which an instructor teaches. The plan includes the goals, specific content and subject matter, performance or learning objectives, references, resources, and method of evaluating or testing students.
- (38) **License**--A license required by law or a state agency rule that must be obtained by an individual to engage in a particular business.
- (39) **Licensee**--An individual holding a license issued by the commission.
- (40) **Line of duty**--Any lawful and reasonable action, which a Texas peace officer is required or authorized by rule, condition of employment, or law to perform. The term includes an action by the individual at a social, ceremonial, athletic, or other function to which the individual is assigned by the individual's employer.
- (41) **Moral character**--The propensity on the part of a person to serve the public of the state in a fair, honest, and open manner.
- (42) **Officer**--A peace officer or reserve identified under the provisions of the Occupations Code, §1701.001.
- (43) **Patrol rifle**--Any magazine-fed repeating rifle with iron/open sights or with a frame mounted optical enhancing sighting device, 3 power or less, that is carried by the individual officer in an official capacity.
- (44) **Peace officer**--A person elected, employed, or appointed as a peace officer under the provisions of the Occupations Code, §1701.001.
- (45) **Personal Identification Number (PID)**--a unique computer-generated number assigned to individuals for identification in the commission's electronic database.
- (46) **Placed on probation**--Has received an adjudicated, unadjudicated or deferred adjudication probation for a criminal offense.
- (47) **POST**--State or federal agency with jurisdiction similar to that of the commission, such as a peace officer standards and training agency.
- (48) **Precision rifle**--Any rifle with a frame mounted optical sighting device greater than 3 power that is carried by the individual officer in an official capacity.

- (49) **Proprietary training contractor**--An approved training contractor who has a proprietary interest in the intellectual property delivered.
- (50) **Public security officer**--A person employed or appointed as an armed security officer by this state or a political subdivision of this state. The term does not include a security officer employed by a private security company that contracts with this state or a political subdivision of this state to provide security services for the entity.
- (51) **Reactivate**--To make a license issued by the commission active after at least a two-year break in service and the licensee's failure to complete legislatively required training.
- (52) **Reinstate**--To make a license issued by the commission active after disciplinary action or after expiration of a license due to failure to obtain required continuing education.
- (53) **Renew**--Continuation of an active license issued by the commission.
- (54) **Reserve**--A person appointed as a reserve law enforcement officer under the provisions of the Occupations Code, §1701.001.
- (55) **Self-assessment**--Completion of the commission created process, which gathers information about a training or education program.
- (56) **Separation**--An explanation of the circumstances under which the person resigned, retired, or was terminated, reported on the form currently prescribed by the commission, in accordance with Occupations Code, §1701.452.
- (57) **SOAH**--The State Office of Administrative Hearings.
- (58) **Successful completion**--A minimum of:
  - (A) 70 percent or better; or
  - (B) C or better; or
  - (C) pass, if offered as pass/fail.
- (59) **TCLEDDS**--Texas Commission on Law Enforcement Data Distribution System.
- (60) **Telecommunicator**--A dispatcher or other emergency communications specialist appointed under or governed by the provisions of the Occupations Code, Chapter 1701.
- (61) **Training coordinator**--An individual, appointed by a commission-recognized training provider, who meets the requirements of §215.9 of this title (relating to Training Coordinator).
- (62) **Training cycle**--A 48-month period as established by the commission. Each training cycle is composed of two contiguous 24-month units.
- (63) **Training hours**--Classroom or distance education hours reported in one-hour increments.
- (64) **Training program**--An organized collection of various resources recognized by the commission for providing preparatory or continuing training. This program includes, but is not limited to, learning goals and objectives, academic activities and exercises, lesson plans, exams, skills training, skill assessments, instructional and learning tools, and training requirements.
- (65) **Training provider**--A governmental body, law enforcement association, alternative delivery trainer, or proprietary entity credentialed by the commission to provide preparatory or continuing training for licensees or potential licensees.
- (66) **Verification (verified)**--The confirmation of the correctness, truth, or authenticity of a document, report, or information by sworn affidavit, oath, or deposition.

(b) The effective date of this section is October 5, 2008.

### **§211.3. Public Information.**

- (a) All commission rules are published in the Texas Register as they are proposed and adopted.
- (b) The commission will index, maintain, and make available for public inspection at the Austin headquarters a copy of:

- (1) the current rules;
  - (2) all interpretive memoranda, policies, and procedures; and
  - (3) all final orders, decisions, and opinions of the commission.
- (c) Members of the public may obtain:
- (1) copies of the rules and other documents published by the commission at the cost recovery rate established in the fee schedule for printed documents. The current cost schedules are available upon request from the commission;
  - (2) the rules and many other documents published by the commission are also available free of charge on the commission website: [www.tcleose.state.tx.us](http://www.tcleose.state.tx.us); and
  - (3) unpublished materials available under the Public Information Act at the rate established by the General Services Commission for such materials.
- (d) The effective date of this section is June 1, 2004.

**§211.5. Licensee Lists.**

- (a) The commission will maintain a list of active and inactive peace officers. The list will be available on request.
- (b) The effective date of this section is March 1, 2001.

**§211.7. Meeting Dates and Procedures.**

- (a) The commission will comply with the open meetings law and may hold quarterly meetings throughout each calendar year, time and place to be determined by the presiding officer and executive director, in March, June, September, and December, unless:
  - (1) the date, and location is altered by vote of the commissioners; or
  - (2) more frequent meetings are called by the presiding officer on the presiding officer's own motion or upon the written request of five voting commissioners.
- (b) At least once every two years, a regular or special meeting will receive public comment on training and standards for officers, jailers, and telecommunicators.
- (c) Each meeting will be conducted by the presiding officer or, in the absence of the presiding officer, by the assistant presiding officer, the secretary, the most senior commissioner, or another commissioner selected by vote, in that order.
- (d) The effective date of this section is March 1, 2001.

**§211.9. Execution of Orders Showing Action Taken at Commission Meetings.**

- (a) The presiding officer shall have the authority to sign written orders showing actions taken by the commissioners at public meetings if he or she did not vote against the action. In the event that the presiding officer votes against the action taken, then a commissioner who has voted with the majority shall sign the order on behalf of the commission.
- (b) The effective date of this section is March 1, 2001.

**§211.11. Contemplated Rule Making.**

- (a) Concerning contemplated rule making, the commission may:
  - (1) use informal conferences and consultations to obtain the advice of interested persons; and/or
  - (2) appoint any advisory committee of experts, interested persons or the public.
- (b) An interested person may petition the commission to request the adoption of a rule. The petition shall comply with the requirements of the Administrative Procedures Act, Texas Government Code Annotated, Chapter 2001. The petition shall be submitted in writing, and contain a reasoned justification for the rule being proposed, the text of the rule, a concise statement of the statutory or other provisions under which the rule is being proposed and how these provisions authorize or require the proposed rule. The executive director shall, within 60 days of submission, either place the petition on the agenda for the next regular meeting or deny the petition in writing. A denial will be

reported at the next meeting. The commission staff or its attorney may modify the language or format of the petition before it is submitted as a proposed rule.

- (c) The effective date of this section is March 1, 2001.

**§211.13. Notice of Commission Rulemaking.**

- (a) At least 30 days before considering final adoption, the commission will give notice of each proposed rule change:
  - (1) to the lieutenant governor and the speaker of the house; and
  - (2) to each law enforcement agency.
- (b) Before the effective date of each proposed rule, the commission will notify each law enforcement agency of final adoption.
- (c) The effective date of this section is March 1, 2001.

**§211.15. Specific Authority to Waive Rules.**

- (a) The commissioners have determined that good cause exists to delegate to the executive director the authority to waive the rules of the commission:
  - (1) to update existing courses or to add new courses and curriculum;
  - (2) to add new exams or to update existing state licensing or certification exams;
  - (3) to conduct other special projects as approved by the commissioners; or
  - (4) for other reasons as may be authorized by law.
- (b) The executive director will report these temporary waivers to the commissioners.
- (c) The effective date of this section is March 1, 2001.

**§211.17. Fees and Payment.**

- (a) The commission may charge application fees for licenses, certificates, endorsements, duplicate documents, and any other reasonable fees as authorized or required by law, as formally approved and adopted.
- (b) Any fee or payment made to the commission by a person, agency, or other entity shall be remitted by money order, cashier's check, agency check, or electronic payment. Fees must be submitted with any required application, and are non-refundable.
- (c) The commission shall adopt and publish a schedule of fees, annually, as authorized by this section, at a regularly scheduled June meeting, to become effective September 1.
- (d) The effective date of this section is March 1, 2001.

**§211.19. Forms and Applications.**

- (a) On applications or other forms required by the commission, the applicant or the individual on whose behalf the form is being submitted is responsible for reviewing the entire document and any attachments to attest to the accuracy and truthfulness of all information on and attached to the document.
- (b) A person who fails to comply with the standards set forth in these rules shall not accept the issuance of a license and shall not accept any appointment.
- (c) If an application is found to be false or untrue, any license or certificate issued to the applicant by the commission will be subject to cancellation and recall.
- (d) Agencies must keep on file and in a format readily accessible to the commission a copy of the documentation required by the commission. If the form or application is submitted via TCLEDDS, the agency must keep on file, and in a format readily accessible to the commission, a signed and dated printout of the electronically submitted form or application.
- (e) An agency must retain required records for a minimum of five years after the licensee's termination date with that agency.

- (f) An agency must report to the commission any failure to appoint an individual in the reported capacity within 30 days of the reported date of appointment. Such report must be made in the currently prescribed commission format for termination.
- (g) The effective date of this section is March 1, 2008.

**§211.21. Issuance of Duplicate or Delayed Documents.**

- (a) If an original license, certificate, or other document was previously issued by the commission, a duplicate of that document may, if the document is current and valid, be issued after:
  - (1) an application is submitted;
  - (2) a check of commission records verifies original issuance and continuing validity; and
  - (3) payment of any required non-refundable application fee.
- (b) The effective date of this section is March 1, 2001.

**§211.23. Date of Licensing or Certification.**

- (a) If an application is required, the date of licensing is the day that proof of all required standards is received and accepted by the commission.
- (b) A person is licensed by the commission on the date of acceptance of the application for licensing.
- (c) Any such document may expire or be cancelled, surrendered, suspended, revoked, deactivated, or otherwise invalidated. Mere possession of the physical document does not necessarily mean that the person:
  - (1) currently holds, has ever held, or has any of the powers of the office indicated on the document; or
  - (2) still holds an active, valid license or certificate.
- (d) The effective date of this section is March 1, 2008.

**§211.25. Date of Appointment.**

- (a) If a proper report of appointment is received by the commission for the appointment as a peace officer and/or county jailer, the commission shall accept the date of appointment that is reported to the commission by the appointing agency.
- (b) The effective date of this section is March 1, 2008.

**§211.27. Reporting Responsibilities of Individuals.**

- (a) When a licensee is arrested, charged, or indicted for a criminal offense above the grade of Class C misdemeanor or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, that person must report such fact to the commission in writing within 30 days, including the name of the arresting agency, the style, court, and cause number of the charge or indictment, if any, and the address to which notice of any commission action will be mailed.
- (b) A person to whom this section applies must also report to the commission the final disposition of the criminal action within 30 days of the effective date of the disposition.
- (c) A licensee must report any name change to the commission within 30 days.
- (d) A licensee must report to the commission a permanent mailing address other than an agency address and must report to the commission any change within 30 days.
- (e) A licensee must report all subsequent DD214's to the Commission indicating any military discharge other than under honorable or general-under-honorable conditions within 30 days.
- (f) The effective date of this section is March 1, 2008.

**§211.28. Responsibility of a Law Enforcement Agency to Report an Arrest of a Peace Officer or County Jailer.**

- (a) When a peace officer or county jailer is arrested for a criminal offense above the grade of Class C misdemeanor or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, the chief administrator of an arresting agency or their designee must report such fact to the commission in writing within 30 business days of the arrest, including:
  - (1) the name, date of birth and Personal Identification Number (PID), or social security number of the licensee (if available),
  - (2) the name, address, and telephone number of the arresting agency,
  - (3) the date and nature of the arrest,
  - (4) the arresting agency incident, booking, or arrest number, and
  - (5) the name, address, and telephone number of the court in which such charges are filed or such arrest is filed.
- (b) The effective date of this section is March 1, 2008.

**§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 agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.
- (c) 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.
- (d) An agency shall notify the commission, electronically or in writing, within 30 days, when it receives information that a person under appointment with that agency has been arrested, charged, indicted, or convicted for any offense above a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence.
- (e) 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 and social security number TCLEOSE or PID number;
  - (2) the requested change; and
  - (3) the reason for the change.
- (f) An agency must notify the commission, electronically or in writing, following the requirements of Texas Occupations Code §1701.452 within 7 business days, when a person under appointment with that agency resigns or is terminated.
- (g) 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.
- (h) Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.
- (i) 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 business days of such appointment.
- (j) An individual who vacates an appointed or elected position of the chief administrator of a law enforcement agency shall notify the Commission of the date the position was terminated, through a form prescribed by the Commission within 7 business days of vacating that position.
- (k) The effective date of this section is March 1, 2008.

**§211.31. Memorandum of Understanding on Continuity of Care.**

- (a) The commission adopts, by reference, a memorandum of understanding that establishes its responsibilities to institute a continuity of care program for offenders who are mentally impaired, elderly, physically disabled, terminally ill or significantly ill, as also adopted by the Texas Correctional Office on Offenders with Mental and Medical Impairments and

the Texas Commission on Jail Standards. Copies of the memorandum of understanding may be obtained from the commission.

- (b) The effective date of this section is June 1, 2006.

**§211.33. Law Enforcement Achievement Awards.**

- (a) The commission shall issue achievement awards to qualified peace officers, reserve law enforcement officers, or jailers licensed by the commission and; hereinafter will be referred to as the nominees. A nominee for the achievement award must meet the following criteria:
- (1) must have maintained, on a continuous basis, an average job performance during the individual's employment or appointment;
  - (2) must have exhibited relevant characteristics of the following:
    - (A) valor - an act of personal heroism or bravery which exceeds the normal expectations of job performance, such as placing one's own life in jeopardy to save another person's life, prevent serious bodily injury to another, or prevent the consequences of a criminal act;
    - (B) public service - when an individual, through initiative, creates or participates in a program or system which has a significant positive impact on the general population of a community which would exceed the normal expectations of job performance; or
    - (C) professional achievement - when an individual, through personal initiative, fixity of purpose, persistence, or endeavor, creates a program or system which has a significant positive impact on the law enforcement profession which would exceed the normal expectations of job performance;
  - (3) must have held a license at the time the qualifying act was performed;
  - (4) shall not ever have had a license suspended, revoked, cancelled, or voluntarily surrendered; and
  - (5) must not be in violation of Occupations Code, Chapter 1701 or rules of the commission.
- (b) The nominations/recommendations for the achievement awards shall be filed as follows:
- (1) received by the commission on or before December 31st of each year;
  - (2) must have been submitted by one of the following:
    - (A) an elected official of the state;
    - (B) an elected official of a political subdivision;
    - (C) an administrator of a law enforcement agency; or
    - (D) any person holding a current license issued by the commission; and
  - (3) shall be supported by acceptable evidence of the nominee's qualifications for the award. Such evidence may consist of evaluations, police reports, newspaper clippings, eyewitness accounts, or other valid, confirmable evidence, consisting of certified copies of documents and sworn affidavits.
- (c) A committee shall be appointed by the executive director for the purpose of reviewing recommendations. Upon completion of the review, the committee will forward to the executive director nominees for consideration. The executive director will provide a list to the commissioners who will then make the final determination of who merits awards at a regularly scheduled meeting.
- (d) The effective date of this section is March 1, 2001.

**§215.1. Licensing of Training Providers.**

- (a) The commission may issue credentials to three types of training or education providers:
- (1) licensed law enforcement academy;
  - (2) contractual training provider; or
  - (3) a licensed academic alternative provider.
- (b) The commission issues these licenses or contracts for a specified period of time:
- (1) five years for a licensed law enforcement academy;

- (2) five years for a contractual training provider;
- (3) five years for a licensed academic alternative provider; or
- (4) for a shorter period as appropriate for a program found to be at risk.
- (c) License renewal is dependent upon continued compliance with commission rules and performance, which includes risk assessment.
- (d) The effective date of this section is March 1, 2007.

**§215.3. Academy Licensing.**

- (a) The commission may issue an academy license to an academy that is operated by or for the state or any political subdivision of the state for the specific purpose of providing law enforcement, corrections, telecommunications, and/or other law enforcement related training. In order for a license to be issued, a comprehensive training needs assessment must be submitted to the commission, justifying the need for an additional academy in the regional planning commission or council of governments area in which the proposed academy will be located. The needs assessment must include as a minimum:
  - (1) a description of whom the academy will serve, including the identity of each law enforcement agency the academy expects to serve, the number of officers the academy expects to train annually from each agency, and the basis for the academy's expectations;
  - (2) a description of existing law enforcement training programs in the proposed service area and documentation justifying the need for an additional academy;
  - (3) the number and types of courses that will be offered;
  - (4) what specific training need(s) are not currently being provided by licensed academies in the regional planning commission or council of governments area; and
  - (5) proof of notification by certified mail to all licensed academies within the regional planning commission or council of governments area of their intent to apply for an academy license and what specific training needs the applicant intends to meet.
- (b) If the commission determines that the training needs assessment justifies an additional academy in the area, and before an academy license may be issued, the proposed academy must pass an inspection of its facilities and instructional materials and must submit for commission approval:
  - (1) a completed, written application on a commission form that is signed by the chief administrator or head of the organization exercising administrative control over the academy;
  - (2) a resolution of support from the governing body of the sponsoring organization;
  - (3) the proposed formal name of the academy, which must not misrepresent the status of the academy or be confusing to law enforcement or to the public;
  - (4) a proposed startup and operational budget and a proposed course schedule to show that training will be conducted on a continuing basis;
  - (5) a schedule of tuition and fees, if any, that will be charged;
  - (6) documentation that an advisory board has already been appointed as provided by the Occupations Code, Chapter 1701.252, including a resume for each board member;
  - (7) any advisory board minutes necessary to show the decisions which have been made by that board in all areas required by the commission;
  - (8) the name, social security number and resume of the proposed training coordinator and any academy staff instructors, and a list of instructors who are scheduled to teach the submitted proposed course schedule;
  - (9) documentation that the academy will be based on at least one of the following sponsoring organizations:

- (A) a law enforcement agency that has at least 50 full-time paid peace officers and/or county jailers under current appointment;
- (B) an institution recognized by the Texas Higher Education Coordinating Board; or
- (C) a regional planning commission or council of governments (COG) board;
  - (i) the commission will issue only one regional academy license within each regional planning commission or council of governments area at any one time;
  - (ii) to be or remain a regional academy, that particular academy must substantially meet the training needs of all current or prospective licensees who reside in that region;
- (10) certification that the academy meets the requirements of the Americans with Disabilities Act (ADA), to which its entity is subject, and as those requirements apply to the academy's function (including course materials, course presentation, and facilities). The certification will represent that the academy will maintain this compliance during the term of the license;
- (11) the physical location and a description of the proposed training facility and any satellite sites; and
- (12) an academy may contract as cosponsor with law enforcement agencies and other entities to conduct continuing education classes or basic jail training. The academy is responsible for certifying the quality of the training, compliance with commission rules and guidelines, and maintaining the necessary documentation.
- (c) The pre-licensing inspection of the academy's facilities and instructional materials shall be conducted by commission staff, or by a team of academy coordinators as appointed by the executive director. An academy must have and maintain:
  - (1) a dedicated classroom that is sufficiently air-conditioned and heated, well lit, free of noise and other unreasonable distractions, and of sufficient size for the number of students to be served;
  - (2) instructors and adequate instructional resources to conduct effective training;
  - (3) adequate and convenient restrooms, breakroom, and parking area;
  - (4) adequate and convenient law enforcement reference library for student and staff use;
  - (5) a proprietary interest in, or a written contract providing for a firing range suitable for the course of fire required in the current basic peace officer course with safety rules clearly posted, adequate restrooms, secure storage and first aid equipment while on the premises;
  - (6) a proprietary interest in, or a written contract providing for at least one driving range designated for criminal justice training. Each academy must have at least one automobile available for criminal justice driving training; and
  - (7) sufficient access to current and appropriate teaching tools and electronic equipment, including video players and projection equipment, computer hardware, software, and Internet access.
- (d) The chief administrator or head of the organization exercising administrative control of the proposed academy and the proposed training coordinator must appear before the commissioners to respond to any questions prior to any action being taken on the application.
- (e) Once an academy license is issued, the chief administrator of the academy or the sponsoring agency must report in writing to the commission within 30 days:
  - (1) any change in training coordinator;
  - (2) any substantial failure to meet commission rules and standards;
  - (3) any rule violation by it or by its training coordinator, instructors, or advisory board;
  - (4) when non-compliance with ADA or any other federal or state requirements is discovered; or

- (5) any change in academy name, physical location, mailing address, electronic mail address, or telephone number.
- (f) The commission may cancel an academy license if it was issued in error or based on false or incorrect information.
- (g) The commission may suspend an academy license, or the executive director or his designee may issue a written reprimand to the sponsoring agency, if:
  - (1) the academy or the sponsoring agency fails to comply with a commission rule or any law; or
  - (2) the academy has been classified as at risk under §215.13 of this title. If the academy is classified as at risk, the chief administrator of the academy or the sponsoring agency must report to the commission in writing within 30 days what steps have been taken to correct deficiencies and on what date they expect to be in compliance.
- (h) The commission will award training credit for any course conducted by a licensed academy as provided by commission rules unless:
  - (1) the course is not conducted as required by commission rules and the advisory board;
  - (2) the training is not related to a commission license;
  - (3) the advisory board, the academy, the training coordinator, the course coordinator, or the instructor substantially failed to discharge any responsibility required by commission rule; or
  - (4) the credit was claimed by deceitful means.
- (i) The commission may revoke an academy license if:
  - (1) the academy has been classified as at risk for a 12-month period without substantial improvement;
  - (2) its training coordinator intentionally or knowingly submits a falsified document or a false written statement or representation to the commission; or
  - (3) it has not met the needs of the communities it is required to serve.
- (j) An academy may voluntarily surrender its license at any time for any reason. To voluntarily surrender its license, an academy's chief administrator must send written notice, accompanied by the license, to the executive director. The license is surrendered effective immediately upon receipt by the executive director.
- (k) The effective date of this section is June 1, 2004.

**§215.5. Contractual Training.**

- (a) The commission may, at the discretion of the executive director, enter into a contract with a law enforcement agency, a law enforcement association, alternative delivery trainer, or proprietary training contractor to conduct training for licensees.
- (b) Any such contract is limited to those terms expressly included in the contract or incorporated by reference and must be dated:
  - (1) on the currently prescribed commission format;
  - (2) signed by the executive director;
  - (3) signed by the chief administrator or head of the sponsoring organization; and
  - (4) signed by the training coordinator responsible for the administration of that training.
- (c) A contract may approve a specific course(s) and the number of times it will be offered. These contracts are for a stated period of time, or five years, whichever is less, but may be terminated within 10 days by written notice on the part of either party to the contract. A contract may incorporate by reference a law, rule, or any other document, however, any waiver, exception, or deletion must be expressed.
- (d) A contract to provide distance education courses may be approved if the contractual training provider:

- (1) submits a request in accordance with the commission's Distance Education Guidelines before the course is offered. The commission may charge a cost recovery fee for reviewing these submissions.
  - (2) ensures that each course will have one or more sponsors assigned, who shall be responsible both for the conduct of the course, and for proctoring any examination during the course.
  - (3) ensures that the student, without the use of deceitful means, completes each required unit, and receives a passing grade on any examination, course work, or evaluation required by the lesson guide or learning objectives.
  - (4) ensures that the student's assigned work is corrected, graded, and reviewed by qualified instructors. Corrected assignments are returned to the student via an exchange that provides a personalized student-teacher relationship.
- (e) The executive director may terminate a contract if no training is conducted within each calendar year unless the chief administrator has petitioned the executive director for a waiver, and the waiver has been granted. The executive director may suspend a contract, until compliance, for any violation of its terms or of any commission rule or law. Any party may terminate, upon written notice to all other parties, received by either the executive director, the coordinator, or any other named person or office.
- (f) The applicant for a training provider contract must provide a comprehensive needs assessment to the executive director justifying the need for a contract. The needs assessment must include at a minimum:
- (1) the names of the licensed academies located in the council of governments or regional planning commission area of the applicant;
  - (2) a description of the existing law enforcement training programs in the area;
  - (3) what specific training need(s) are to be addressed by the proposed contract; and
  - (4) the number and types of courses that will be offered during the first quarter of the executed contract;
- (g) If the commission determines that the needs assessment justifies a contract, the chief administrator of the contractual training provider must:
- (1) appoint and maintain an advisory board as required by law and rule;
  - (2) follow the current requirements set by its advisory board;
  - (3) select a training facility that meets any inspection requirements identified in §215.3, as determined by the commission;
  - (4) select any instructional material, equipment, or resources necessary for the course(s);
  - (5) forward for approval, upon the executive director's request, at least one copy of the learning objectives of each course covered by the contract;
  - (6) appoint and maintain the appointment of a training coordinator;
  - (7) ensure the training coordinator discharges any responsibilities required by law, rule, or contract, including §215.9; and
  - (8) report in writing to the commission within 30 days:
    - (A) any change in chief administrator;
    - (B) any change in training coordinator;
    - (C) any substantial failure to meet commission rules and standards;
    - (D) any rule violation by it or by its training coordinator, instructors, or advisory board;
    - (E) when non-compliance with ADA or any other federal or state requirements is discovered; or
    - (F) any change in provider name, physical location, mailing address, electronic mail address, or telephone number.
- (h) By entering into any such contract the commission approves specific training which will be fully credited to each licensee, unless:
- (1) the training was not conducted in compliance with the contract; or

- (2) the advisory board, training coordinator or instructor substantially failed to discharge any responsibility required by commission rule; or
- (3) the credit was claimed by deceitful means.
- (i) Once the contract has been executed, the contractual trainer may be evaluated periodically by the commission as determined by the executive director. The evaluation may be accomplished by commission staff or by training professionals selected and trained by the executive director.
- (j) The effective date of this section is March 1, 2008.

**§215.6. Academic Alternative Licensing.**

- (a) The commission may, at the discretion of the executive director, issue an academic alternative license to a Texas college that is accredited by the Southern Association of Colleges and Schools (SAC) and which has a criminal justice or law enforcement program approved by the Higher Education Coordinating Board (HECB). In order for a license to be issued, a training needs assessment must be submitted to the commission. The needs assessment must include at a minimum:
  - (1) a description of existing law enforcement training programs in the proposed service area;
  - (2) proof of notification by certified mail to all licensed academies within the area of the applicant's intent to apply for an academic provider license; and
  - (3) a description of how the applicant will enhance the current training situation in the area by identifying:
    - (A) the number of individuals the applicant expects to train annually; and
    - (B) the basis for the applicant's expectations.
- (b) If the commission determines that the needs assessment justifies a license, and before an academic alternative license may be issued, the applicant must pass an inspection of its facilities and instructional materials as required by §215.3.
- (c) As a condition of licensure, the dean of the department:
  - (1) must appoint and maintain an advisory board as required by law and §215.7;
  - (2) must follow the current requirements set by its advisory board;
  - (3) must select a facility that meets all inspection requirements as required by §215.3;
  - (4) must select any instructional material, equipment, or resources necessary for the academic alternative courses;
  - (5) must forward for approval, upon the executive director's request, at least one copy of the lesson plans of each academic alternative course provided;
  - (6) must appoint and maintain the appointment of a qualified training coordinator;
  - (7) must ensure that the training coordinator discharges any responsibilities required by law, rule, or contract, including §215.9 of this title;
  - (8) must make provisions for the Registrar to issue all endorsements;
  - (9) may make contractual provisions with a licensed academy to provide the sequence courses; and
  - (10) must report in writing to the commission within 30 days:
    - (A) any change in dean of the department;
    - (B) any change in training coordinator;
    - (C) any substantial failure to meet commission rules and standards;
    - (D) any rule violation by it or its training coordinator, instructors, or advisory board;
    - (E) any change in status with HECB;
    - (F) any change in status with SAC;
    - (G) when non-compliance with ADA or any federal or state requirements is discovered; or
    - (H) any change in provider name, physical location, mailing address, electronic mail address, or telephone number.

- (d) The commission may cancel an academic alternative license if it was issued in error or based on false or incorrect information.
- (e) The commission will award academic coursework credit to each student for the academic alternative courses when provided by licensed academic alternative providers unless:
  - (1) the courses were not conducted in compliance with commission rules;
  - (2) the courses were not conducted in compliance with the Higher Education Coordinating Board;
  - (3) the advisory board, training coordinator, or instructor substantially failed to discharge any responsibility required by rule; or
  - (4) the credit was obtained by deceitful means.
- (f) The commission may suspend an academic alternative license, or the executive director or his designee may issue a written reprimand to the dean of the department, if:
  - (1) the academic alternative provider fails to comply with a commission rules or any law; or
  - (2) the academic alternative provider has been classified as at risk under §215.13 of this title. If the academic alternative provider is classified as at risk, the dean of the department must report to the commission in writing within 30 days what steps have been taken to correct deficiencies and on what date they expect to be in compliance.
- (g) The commission may revoke an academic alternative license if:
  - (1) the academic alternative provider has been classified as at risk for a 12-month period without substantial improvement; or
  - (2) the academic alternative provider has lost either SAC accreditation or HECB approval; or
  - (3) its training coordinator intentionally or knowingly submits a falsified document or a false written statement or representation to the commission;
- (h) An academic alternative provider may voluntarily surrender its license at any time for any reason. To voluntarily surrender its license, the dean of the department must send written notice, accompanied by the license, to the executive director. The license is surrendered effective immediately upon receipt by the executive director.
- (i) The effective date of this section is June 1, 2004.

**§215.7. Training Provider Advisory Boards.**

- (a) All training providers approved by the commission must establish and maintain an advisory board, as required by the Texas Occupations Code, §1701.252. To be established, this board must have at least three members who are appointed by the sponsoring organization. To be maintained, the active, appointed membership of the board must not fall below a quorum for more than 30 days.
- (b) The board may have members who are law enforcement personnel; however, one-third of the members must be public members having the same qualifications, found in the Texas Occupations Code, §1701.052 as any commissioner who is required by law to be a member of the general public. The chief administrator or head of the sponsoring organization and the designated training coordinator may only be ex-officio, non-voting members.
- (c) The chief administrator or head or the sponsoring organization may appoint a chairman or the board may elect a chairman. The board may elect other officers and set its own rules of procedure. A quorum must be present in order to conduct business.
- (d) A board must meet at least once each calendar year. More frequent meetings may be called by its chairman, the training coordinator, or the person who appoints the board.
- (e) A board will keep written minutes of all meetings. These minutes must be retained for at least five years and a copy forwarded to the commission upon request.
- (f) Board members will be appointed by the following authority:

- (1) for an agency academy, by the chief administrator as defined in §211.1 of this title (relating to definitions);
- (2) for a college academy, by the dean or other person who appoints the training coordinator;
- (3) for a regional academy, by the head of the council of governments or other sponsoring entity holding the academy license from names submitted by chief administrators from that area; or
- (4) for a contractual training provider, by the chief administrator.
- (g) A member may be removed by the appointing authority.
- (h) A board is generally responsible for advising on the development of curricula and any other related duty that may be required by the commission.
- (i) The board must, as specific duties:
  - (1) effectively discharge its responsibilities and otherwise comply with commission rules;
  - (2) advise on the need to study, evaluate, and identify specific training needs;
  - (3) advise on the determination of the types, frequency, and location of courses to be offered; and
  - (4) advise on the establishment of the standards for admission, prerequisites, minimum and maximum class size, attendance, and retention.
- (j) A board must advise on the establishment of admission standards, and determine the order of preference between employees or prospective appointees of the sponsoring organization and other persons, if any. No person may be admitted to a training course without meeting the admission standards. The admission standards for licensing courses must be available for review by the commission upon request.
- (k) A board may, when discharging its responsibilities, request that a report be made or some other information be provided to them by a training or course coordinator.
- (l) The effective date of this section is December 1, 2006.

**§215.9. Training Coordinator.**

- (a) A training coordinator must hold a valid instructor license or certificate and must be a full-time paid employee.
- (b) The training coordinator must:
  - (1) prepare, maintain, and submit the following reports within the time frame specified:
    - (A) reports training - to be submitted prior to the issuance of any endorsement for a licensing examination for a course leading to a license and within 30 days of completion of each continuing education course;
    - (B) self-assessment reports as required by the commission;
    - (C) a copy of advisory board minutes to be submitted during an on-site evaluation;
    - (D) training calendars-schedules must be available for review or posted on the Internet no later than 30 days prior to the beginning of each calendar quarter-or academic semester;
    - (E) any other reports or records as requested by the commission;
  - (2) be responsible for the administration and conduct of each course, including those conducted at ancillary sites, and specifically:
    - (A) appointing and supervising qualified instructors;
    - (B) maintaining course schedules and course files, including lesson plans;
    - (C) securing and maintaining all facilities necessary to meet the inspection standards of this section;
    - (D) enforcing all admission, attendance, retention, and other standards set by the commission and the advisory board;
    - (E) distributing learning objectives to all students at the beginning of each course and ensure that all learning objectives are taught properly and

evaluated, that all training is effective, and that no required instruction periods are consumed by matters that are frivolous or unrelated to the scheduled training;

- (F) distributing a current version of the commission rules and law to all students at the time of application for admission, and ensuring that a review of the rules of the commission pertaining to continuing education for licensees, annual firearms proficiency, reporting responsibilities of individuals, revocation, suspension and voluntary surrender of licenses, proficiency certificates and the law enforcement achievement awards are part of any course that may result in the issuance of a license;
  - (G) controlling the discipline and demeanor of each student and instructor during class;
  - (H) proctoring or supervising all examinations to ensure fair, honest results; and
  - (I) maintaining records of tests and other evaluation instruments for a period of five years.
- (3) receive all commission notices on behalf of the training provider and forward each notice to the appointing authority; and
  - (4) attend or have a designee attend each academy coordinator's workshop conducted by the commission.
- (c) If the position of training coordinator becomes vacant, the commission may, at the discretion of the executive director and upon petition of the chief administrator of the training provider, waive the requirement for a full-time paid and assigned training coordinator for a period not to exceed six months.
  - (d) Upon petition of the chief administrator of a training provider that does not have a full-time paid staff the commission may, at the discretion of the executive director, waive the requirement for a full-time paid training coordinator.
  - (e) The effective date of this section is March 1, 2007.

#### **§215.11. Training Provider Evaluations.**

- (a) All training providers shall be evaluated periodically and randomly. Providers with deficiencies will be evaluated more frequently, as determined by the commission.
- (b) All training providers shall submit a self-assessment report each state fiscal year other types of evaluation methods, including, but not limited to, on-site evaluations may be used.
- (c) An evaluation of the training provider will be based upon the current evaluation method(s) used. The results of the evaluation will be forwarded to the chief administrator, training coordinator, advisory board chair and other appropriate persons associated with the training provider.
- (d) The commission uses the following information in assessing the performance of training providers:
  - (1) licensing examination results;
  - (2) reports from past evaluation records;
  - (3) self-assessment reports;
  - (4) reports and evaluations from students, law enforcement agencies, and citizens;
  - (5) commission records;
  - (6) course records;
  - (7) observations by commission staff;
  - (8) information used as risk assessment factors; and
  - (9) any other relevant information about performance and practices.
- (e) The effective date of this section is June 1, 2006.

#### **§215.13. Risk Assessment.**

- (a) A law enforcement academy may be found at risk;

- (1) after January 1, 2003, if the passing rate on a licensing examination for first attempts for any state fiscal year is less than 70 percent of the students attempting the licensing exam;
  - (2) after September 1, 2009, if the passing rate on a licensing exam for first attempts for any three consecutive state fiscal years, beginning with state fiscal year 2007 (September 1, 2006 through August 31, 2007) is less than 80 percent of the students attempting the licensing exam;
  - (3) if commission required learning objectives are not taught;
  - (4) if lesson plans for classes conducted are not on file;
  - (5) if examination and other evaluative scoring documentation is not on file;
  - (6) if the academy files false reports to the commission;
  - (7) if the academy makes repeated errors in reporting;
  - (8) if the academy does not respond to commission requests for information;
  - (9) if the academy does not comply with commission rules or other applicable law;
  - (10) if the academy does not achieve the goals identified in its application for a license;
  - (11) if the academy does not meet the needs of the officers and law enforcement agencies served; or
  - (12) if the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of training or failure to meet training needs for the service area.
- (b) A contractual provider may be found at risk;
- (1) for the same reasons in subsection (a) (1)-(2) if licensing courses or components are provided;
  - (2) if lesson plans for classes conducted are not on file;
  - (3) if examination and other evaluative scoring documentation is not on file;
  - (4) if the provider files false reports to the commission;
  - (5) if the provider makes repeated errors in reporting;
  - (6) if the provider does not respond to commission requests for information;
  - (7) if the provider does not comply with commission rules or other applicable law;
  - (8) if the provider does not achieve the goals identified in its application for a license or contract;
  - (9) if the provider does not meet the needs of the officers and law enforcement agencies served; or
  - (10) if the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of training or failure to meet training needs for the service area.
- (c) An academic provider may be found at risk:
- (1) after January 1, 2003, if the passing rate on a licensing examination for first attempts for any 3 state fiscal year period is less than 70 percent of the students attempting the licensing exam;
  - (2) after September 1, 2009, if the passing rate on a licensing exam for first attempts for any three consecutive state fiscal years, beginning with state fiscal year 2007 (September 1, 2006 through August 31, 2007) is less than 80 percent of the students attempting the licensing exam;
  - (3) if courses are not conducted in compliance with Higher Education Program Guidelines accepted by the commission;
  - (4) if the commission required learning objectives are not taught;
  - (5) if the program files false reports to the commission;
  - (6) if the program makes repeated errors in reporting;
  - (7) if the program does not respond to commission requests for information;
  - (8) if the program does not comply with commission rules or other applicable law;
  - (9) if the program does not achieve the goals identified in its application for a license or contract;

- (10) if the program does not meet the needs of the students and law enforcement agencies served; or
- (11) if the commission has received sustained complaints or evaluations from students or the law enforcement community concerning the quality of education or failure to meet education needs for the service area.
- (d) At risk training providers must follow commission directives.
- (e) A training or educational program at risk must notify all students and potential students of their at risk status. The commission may take action to revoke their license or contract. The commission may choose not to renew a license or contract with a program that has been found to be at risk or the commission may renew the contract for a shorter period than stated in §215.1 of this title.
- (f) The effective date of this section is June 1, 2007.

**§215.15. Enrollment Standards.**

- (a) In order for an individual to enroll in any basic licensing course that provides instruction in defensive tactics, arrest procedures, firearms, or use of a motor vehicle for law enforcement purposes, the academy must have on file:
  - (1) written documentation that the person is currently licensed by the commission; or
  - (2) if the individual is not licensed by the commission, documentation that the individual has been subjected to a search of local, state and national records to disclose any criminal record;
    - (A) is not currently charged with any criminal offense for which conviction would be a bar to licensure;
    - (B) community supervision history:
      - (i) has never been on court-ordered community supervision or probation for any criminal offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years from the date of the court order; but
      - (ii) the commission may approve the application of an individual who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;
    - (C) conviction history:
      - (i) 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; but
      - (ii) the commission may approve the application of an individual who was convicted of a Class B misdemeanor at least five (5) years prior to enrollment if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period.
    - (D) For 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:
      - (i) another penal provision of Texas law; or
      - (ii) a penal provision of any other state, federal, military or foreign jurisdiction.

- (E) 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 law.
  - (F) has never been convicted of any family violence offense;
  - (G) is not prohibited by state or federal law from operating a motor vehicle;
  - (H) is not prohibited by state or federal law from possessing firearms or ammunition; and
  - (I) is a U.S. citizen.
- (b) In order for an individual to enroll in any basic peace officer training program that provides instruction in defensive tactics, arrest procedures, firearms, or use of a motor vehicle for law enforcement purposes, the academy must have on file:
- (1) a high school diploma;
  - (2) a high school equivalency certificate and evidence of successful completion of at least 12 hours from an institution of higher education with at least a 2.0 grade point average on a 4.0 scale; or
  - (3) an honorable discharge from the armed forces of the United States after at least 24 months of active duty service;
- (c) The enrollment standards established in this section do not preclude the licensed academy from establishing additional requirements or standards for enrollment in law enforcement training programs.
- (d) The effective date of this section is October 5, 2008.

**§217.1. Minimum Standards for Initial Licensure.**

- (a) The commission shall issue a peace officer, jailer, temporary jailer, or public security officer license to an applicant who meets the following standards:
- (1) minimum educational requirements:
    - (A) has passed a general educational development (GED) test indicating high school graduation level;
    - (B) is a high school graduate; or
    - (C) has 12 semester hours credit from an accredited college or university.
  - (2) for peace officers and armed public security officers, is 21 years of age, or 18 years of age if the applicant has received an associate's degree or 60 semester hours of credit from an accredited college or university or has received an honorable discharge from the armed forces of the United States after at least two years of active service; for jailers is 18 years of age;
  - (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;
  - (4) community supervision history:
    - (A) has not ever have been 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; but
    - (B) the commission may approve the application of a person who received probation or court-ordered community supervision for a Class B misdemeanor at least five (5) years prior to application if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;
  - (5) is not currently under indictment for any criminal offense;
  - (6) conviction history:
    - (A) has not ever been convicted of an offense above the grade of a Class B misdemeanor or a Class B misdemeanor within the last ten years; but

- (B) the commission may approve the application of a person who was convicted for a Class B misdemeanor at least five (5) years prior to application if an agency administrator sufficiently demonstrates in writing with supporting documentation that mitigating circumstances exist with the case and with the individual applying for licensure, and that the public interest would be served by reducing the waiting period;
- (7) has never been convicted of any family violence offense;
- (8) is not prohibited by state or federal law from operating a motor vehicle;
- (9) is not prohibited by state or federal law from possessing firearms or ammunition;
- (10) has been subjected to a background investigation and has been interviewed prior to appointment by representatives of the appointing authority;
- (11) has been 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 in writing by that professional within 180 days before the date of appointment by the agency to be:
  - (A) physically sound and free from any defect which may adversely affect the performance of duty appropriate to the type of license sought;
  - (B) show no trace of drug dependency or illegal drug use after a physical examination, 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;
- (12) has been examined by a psychologist, selected by the appointing or employing agency, who is licensed by the Texas State Board of Examiners of Psychologists. The psychologist must be familiar with the duties appropriate to the type of license sought and appointment to be made. This examination may also be conducted by a psychiatrist. The appointee must be declared in writing by that professional to be in satisfactory psychological and emotional health to serve as the type of officer for which the license is sought within 180 days before the date of appointment by the agency. The examination must be conducted pursuant to professionally recognized standards and methods:
  - (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;
  - (B) the examination may be conducted by a qualified psychologist exempt from licensure by the Psychologist Certification and Licensing Act, Section 22, who is recognized under exceptional circumstances; 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;
- (13) has not been discharged from any military service under less than honorable conditions including, specifically:
  - (A) under other than honorable conditions;
  - (B) bad conduct;
  - (C) dishonorable;
  - (D) any other characterization of service indicating bad character;
- (14) has not had a commission license denied by final order or revoked;

- (15) is not currently on suspension, or does not have a voluntary surrender of license currently in effect;
  - (16) meets the minimum training standards and passes the commission licensing examination for each license sought;
  - (17) has not violated any commission rule or provision of Occupations Code, Chapter 1701; and
  - (18) is a U.S. citizen.
- (b) 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.
  - (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.
  - (d) 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.
  - (e) An agency must retain records required under this section for a minimum of five years after the licensee's termination date with that agency. These records must be maintained in a format readily accessible to the commission.
  - (f) An agency must report to the commission any failure to appoint an individual in the reported capacity within 30 days of the reported date of appointment. Such report must be made in the currently prescribed commission format for termination.
  - (g) A person must successfully complete the minimum training required for the license sought:
    - (1) training for the peace officer license consists of:
      - (A) the current basic peace officer course; or
      - (B) successful completion of a commission recognized, POST developed, basic law enforcement training course, to include:
        - (i) out of state licensure or certification; and
        - (ii) submission of the current eligibility application and fee; or
      - (C) as an alternative to the current basic peace officer course taken at a licensed academy, the commission may approve an academic alternative program that is part of a degree plan program and consists of the commission-approved transfer curriculum, the commission-approved peace officer sequence courses, and after September 1, 2003, at least an associate's degree;
    - (2) training for the jailer license consists of the current basic county corrections course(s);
    - (3) training for the public security officer license consists of the current basic peace officer course;
    - (4) passing any examination required for the license sought prior to the expiration of the endorsement, and
    - (5) the licensing application must be submitted to the commission by a law enforcement or other appointing agency in the completed application format currently prescribed by the commission for the license sought.
  - (h) The commission shall issue a peace officer or jailer license to any person who is otherwise qualified for that license, even if that person is not subject to the licensing law or rules by virtue of election or appointment to office under the Texas Constitution.
  - (i) A sheriff who first took office on or after January 1, 1994, must be licensed by the commission not later than two years after taking office.

- (j) A constable who first took office on or after January 1, 1985, must be licensed by the commission not later than two years after taking office. A constable taking office after August 30, 1999, must be licensed by the commission not later than 270 days after taking office.
- (k) The commission may issue a provisional license, consistent with Occupations Code 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.
- (l) 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.
- (m) A provisional license may not be reissued and expires:
  - (1) 12 months from the original appointment date;
  - (2) on leaving the appointing agency;
  - (3) on the date the holder fails the peace officer licensing examination for the third time; or
  - (4) on failure to comply with the terms stipulated in the provisional license approval.
- (n) A temporary jailer license may not be reissued and expires:
  - (1) 12 months from the original appointment date;
  - (2) on completion of training and passing of the jailer licensing examination; or
  - (3) on the date the holder fails the jailer licensing examination for the third time.
- (o) The effective date of this section is September 1, 2007.

**§217.3. Application for License and Initial Report of Appointment.**

- (a) An agency appointing an individual who does not hold a commission license must file an application for the appropriate license with the commission. The application must be approved with a license issuance date before the individual is appointed or commissioned. The application must be completed, signed, and filed with the commission by the agency's chief administrator or designee.
- (b) Except for an agency that has 20 or fewer employees or an agency that provides less than 24-hours-a-day service, an agency appointing an individual as a temporary emergency telecommunicator must file an application with the commission. The application must be completed, signed, and filed with the commission by the agency's chief administrator or designee.
- (c) An application for a license or initial report of appointment must be submitted in an application format currently accepted by the commission.
- (d) An agency that files an application for licensing must keep on file and in a format readily accessible to the commission a copy of the documentation necessary to show each licensee appointed by that agency met the minimum standards for licensing, including weapons proficiency for peace officers.
- (e) An agency must retain records required under subsection (d) of this section for a minimum of five years after the licensee's termination date with that agency. The records must be maintained in a format readily accessible to the commission.
- (f) An agency which submits an application for an individual must report to the commission any failure to appoint that individual in the reported capacity within 30 days of the reported date of appointment. Such report must be made in a currently accepted commission format that reports termination.
- (g) The effective date of this section is March 1, 2008.

**§217.5. Denial and Cancellation.**

- (a) The commission may deny an application for any license and may refuse to accept a report of appointment if the:

- (1) applicant has not been reported to the commission as meeting all minimum standards, including any training or testing requirements;
  - (2) applicant has not affixed any required signature;
  - (3) required forms or documentation are incomplete, illegible, or are not attached;
  - (4) application is not submitted or signed by a chief administrator, or designee with authority to appoint the applicant to the position reported;
  - (5) application is not submitted by the appointing agency or entity;
  - (6) agency reports the applicant in a capacity that does not require the license sought;
  - (7) agency fails to provide documentation, if requested, of the agency's creation or authority to appoint persons in the capacity of the license sought or the agency is without such authority; or
  - (8) application contains a false assertion by any person.
- (b) If an application is found to be incorrect or subject to denial under (a), any license issued to the applicant by the commission is subject to cancellation.
- (c) Any such document may expire or be cancelled, surrendered, suspended, revoked, deactivated, or otherwise invalidated. Mere possession of the physical document does not necessarily mean that the person:
- (1) currently holds, has ever held, or has any of the powers of the office indicated on the document; or
  - (2) still holds an active, valid license, or certificate.
- (d) The effective date of this section is June 1, 2004.

**§217.7. Reporting the Appointment and Termination of a Licensee.**

- (a) Before hiring or appointing a licensee, an agency shall contact the commission, electronically or in writing, to determine whether the commission has employment history records on that individual. If employment history records exist, then the agency shall contact the previous employing agency(ies) in writing to request employment information.
- (b) In order to receive information and/or a copy of the termination form from employment history records regarding the reasons for resignation or termination, the inquiring agency must request the information in writing on the agency's letterhead. The request must be signed by the agency chief administrator or designee. The request must be accompanied by a commission form that authorizes release of that information. This form must be signed and sworn to by the individual who is the subject of the report.
- (c) An agency that appoints an individual who already holds a valid, active license appropriate to that position must notify the commission of such appointment not later than 30 days after the date of appointment. The appointing agency must have on file documentation that the licensee is compliant with weapons qualification according to §217.21 within the last 12 months. Before the law enforcement agency may hire a person licensed under this chapter, the agency head or designee must:
- (1) make a written request to the commission for any employment termination report regarding the person that is maintained by the commission; and
  - (2) submit to the commission on a form prescribed by the commission confirmation that the agency;
    - (A) conducted in the prescribed by the commission a criminal background check regarding the person;
    - (B) obtained the individual's written consent on a form prescribed by the commission for the agency to view the person's employment records;
    - (C) obtained from the commission all records relevant for employment on the individual, that is maintained by the commission; and
    - (D) contacted each of the individual's previous law enforcement employers.
- (d) Before appointing a licensee whose license has expired, an agency shall ensure that the individual meets the current minimum standards for licensure.

- (e) If the appointment is made after a 180-day break in service, the agency must have the following on file and readily accessible to the commission:
  - (1) a new criminal history check by name, sex, race and date of birth from both TCIC and NCIC;
  - (2) a new declaration of psychological and emotional health;
  - (3) a new declaration of lack of any drug dependency or illegal drug use; and
  - (4) one completed applicant fingerprint card or, pending receipt of such card, an original sworn, notarized affidavit by the applicant of his or her complete criminal history; such affidavit to be maintained by the agency while awaiting the return of completed applicant fingerprint card; and
  - (5) for peace officers, weapons qualification according to §217.21 within the last 12 months.
- (f) An agency must retain records kept under this section for a minimum of five years after the licensee's termination date with that agency. The records must be maintained in a format readily accessible to the commission.
- (g) When an individual licensed by the commission resigns from appointment or employment with an agency or if an individual's appointment or employment is terminated for any reason, the agency shall submit a report to the commission in the currently prescribed commission format that reports resignation or termination, including all emergency telecommunicators. The report shall be submitted within 7 business days following the date of resignation or termination. If a licensee has filed a timely grievance or appeal within the personnel policies of the agency, the agency shall not be required to file the F-5 until all administrative remedies have been exhausted. The report shall include an explanation of the circumstances under which the individual resigned, was terminated, or other and one of the following designations: retired, honorably discharged, dishonorably discharged, generally discharged, killed in the line of duty, died, or disabled. The agency shall provide the individual who is the subject of the report a copy of the report within 7 business days after the date of separation. The individual may submit a petition to the commission to contest the information included in the report not later than the 30<sup>th</sup> day after they receive a copy of the report. They must also submit a copy of the petition to the law enforcement agency.
- (h) A report or statement submitted under this section is exempt from disclosure under the Public Information Act, Chapter 552, Government Code, unless the individual resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses, and is subject to subpoena only in a judicial proceeding.
- (i) The effective date of this section is March 1, 2008.

**§217.8. Contesting an Employment Termination Report**

- (a) A person who is the subject of an employment termination report described in §217.7(g) is entitled to file a petition contesting information included in the employment termination report. The petition for correction of the report must be filed with the executive director and a copy must be served on the law enforcement agency.
- (b) A petition described in subsection (a) must be received by the executive director not later than the 30<sup>th</sup> day after the person receives a copy of the report, and must be accompanied by any evidence offered by the person in support of the requested correction.
- (c) The law enforcement agency may submit rebutting evidence not later than the 20<sup>th</sup> day after the agency receives a copy of the petition.
- (d) Upon review of the petition and any rebutting evidence offered by the law enforcement agency, the executive director may either:
  - (1) recommend that the commission order the chief administrative officer of the law enforcement agency to correct the report; or
  - (2) refer the dispute to the State Office of Administrative Hearings.
- (e) A proceeding conducted pursuant to subsection (d)(2) of this section is a contested case

under chapter 2001, Government Code. The parties to the proceeding shall be the person contesting the employment termination report, the chief administrative officer of the law enforcement agency, and the executive director. The chief administrative officer of the law enforcement agency shall have the burden of proof by a preponderance of the evidence. Following the contested case hearing, the administrative law judge shall issue a final order on the petition.

- (f) Any party to a proceeding described in subsection (e) of this section may file exceptions to the administrative law judge's final order in accordance with State Office of Administrative Hearings rules and procedures.
- (g) A final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is enforceable by the commission pursuant to Chapter 1701, Texas Occupations Code and Chapter 2001, Government Code.
- (h) A final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is appealable in accordance with chapter 2001, Government Code.
- (i) A chief administrative officer of a law enforcement agency who fails to comply with a final order issued by the commission under subsection (d)(1), or after a hearing described in subsection (e) is subject to disciplinary action pursuant to Chapter 1701, Texas Occupations Code, and Chapter 223 of this title.
- (j) The effective date of this section is March 1, 2008.

#### **§217.9. Continuing Education Credit for Licensees.**

- (a) A continuing education course is any training course that is recognized by the commission, specifically:
  - (1) legislatively required continuing education curricula and learning objectives developed by the commission;
  - (2) training in excess of basic licensing course requirements;
  - (3) training courses consistent with assigned duties; or
  - (4) training not included in a basic licensing course.
- (b) The commission may refuse credit for:
  - (1) a course that does not contain a final examination or other skills test, if appropriate, as determined by the training provider;
  - (2) annual firearms proficiency;
  - (3) an out-of-state course not approved by that state's POST;
  - (4) training that fails to meet any commission established length and published learning objectives;
  - (5) an instructor claiming credit for a basic licensing course or more than one presentation of a non-licensing course by an instructor, per 24 month unit of a training cycle; or
  - (6) course(s) claimed by deceitful means;
  - (7) courses taken two or more times on the Peace Officer System for Education and Internet Training (POSEIT) system within one training unit.
  - (8) courses provided by the same training provider and taken more than two times within one training unit.
- (c) The training provider or agency must report to the commission and keep on file in a format readily accessible to the commission, a copy of all continuing education course training reports.
- (d) The effective date of this section is June 1, 2006.

#### **§217.11. Legislatively Required Continuing Education for Licensees.**

- (a) Each agency that appoints or employs peace officers, reserve law enforcement officers, jailers, or public security officers shall provide each peace officer, reserve law enforcement officer, jailer, or public security officer it appoints or employs a continuing education program at least once every 24 month unit of a training cycle.

- (b) The legislatively required continuing education program for individuals licensed as peace officers shall consist of 40 hours of training every 24 month unit of a training cycle. This rule does not limit the number of hours of continuing education an agency may provide to each peace officer, reserve law enforcement officer, jailer, or public security officer it appoints or employs.
- (c) Part of the legislatively required peace officer training must include the curricula and learning objectives developed by the commission, to include:
  - (1) civil rights, racial sensitivity, and cultural diversity during each current training cycle;
  - (2) the recognition and documentation of cases that involve child abuse or neglect, family violence, sexual assault, issues concerning sex offender characteristics during each current training cycle. If an agency chief administrator determines these subjects to be inconsistent with the peace officer's assigned duties, the chief administrator may substitute other training determined to be consistent with the officer's assigned duties and report the substitution to the commission; and
  - (3) supervision issues for each peace officer appointed to their first supervisory position, this training must be completed within 24 months following the date of appointment as a supervisor.
- (d) Individuals licensed as reserve law enforcement officers, jailers, or public security officers shall meet the requirements in subsection (c)(1) of this section.
- (e) For appointed or elected constables:
  - (1) An individual appointed or elected to that individual's first position as constable must complete at least 40 hours of initial training for new constables in accordance with Occupations Code, 1701.3545(c).
  - (2) Each constable must complete at least 40 hours of continuing education in accordance with Occupations Code, 1701.3545(b), each 48-month period.
- (f) Each deputy constable shall also complete a 20 hour course of training in civil process during each current training cycle.
- (g) For individuals appointed as "chief" or "police chief" of a police department:
  - (1) A newly appointed or elected police chief shall complete the initial training program for new chiefs not later than the second anniversary of that individual's appointment or election as chief.
  - (2) Each police chief must receive at least 40 hours of continuing education provided by the Bill Blackwood Law Enforcement Management Institute, as per section 96.641, Education Code, each 24-month period.
- (h) The commission shall provide adequate notice to agencies and licensees of impending non-compliance with the legislatively required continuing education.
- (i) The chief administrator of an agency that has licensees who are in non-compliance shall, within 30 days of receipt of notice of non-compliance, submit a report to the commission explaining the reasons for such non-compliance.
- (j) The commission may suspend or deny renewal of a license for failure to complete the legislatively required continuing education program at least once every training unit.
- (k) The commission may take action against a licensee for failure to complete the required training in either or both of the 24 month units within a training cycle.
- (l) Individuals licensed as peace officers shall complete the legislatively required continuing education program required under this section beginning in the first complete 24 month unit immediately following the date of licensing.
- (m) All peace officers must meet all continuing education requirements except where exempt by law.
- (n) Licensees who have met the current legislatively required continuing education will have their license(s) automatically renewed on the last day of the training unit.
- (o) The effective date of this section is March 1, 2008.

**§217.13. Reporting Legislatively Required Continuing Education.**

- (a) Each agency, academy, or training provider shall maintain proof of a licensee's completion of legislatively required continuing education training in a format currently accepted by the commission. The report of training shall be submitted to the commission within 30 days following completion of the training. Failure to report training to the commission within 30 days is a violation of commission rules. Upon receipt of a properly completed report of training, the commission will make the appropriate entry into the training records of the licensee.
- (b) The chief administrator of an agency that has licensees who are in non-compliance shall, within 30 days of receipt of notice of non-compliance, submit a report to the commission explaining the reasons for such non-compliance.
- (c) The effective date of this section is March 1, 2001.

**§217.15. Waiver of Legislatively Required Continuing Education.**

- (a) The executive director may waive the legislatively required continuing education for a licensee, as required by the Occupations Code, Chapter 1701, if the licensee demonstrates the existence of mitigating circumstances justifying the licensee's failure to obtain the legislatively required continuing education.
- (b) Mitigating circumstances are defined as:
  - (1) catastrophic illness or injury that prevents the licensee from performing active duty for longer than 12 months; or
  - (2) active duty with the armed forces of the United States, or a reserve component of the armed forces of the United States for a time period in excess of 12 months.
- (c) A request for a waiver of the legislatively required continuing education under this section shall be in writing, accompanied by verifying documentation, and shall be submitted to the executive director with a copy to the chief administrator of the licensee's appointing agency not less than 30 days prior to the expiration of the license.
- (d) Absent exigent circumstances, a request for a waiver under this section shall be submitted to the executive director not less than 90 days prior to expiration of the license.
- (e) The commission may waive the requirement for civil process training if:
  - (1) the constable requests a waiver for the deputy constable based on a representation that the deputy constable's duty assignment does not involve civil process responsibilities, or
  - (2) the constable or deputy constable requests a waiver because of hardship and the commission determines that a hardship exists.
- (f) Within 20 days of receiving a request for a waiver under this section, the executive director shall notify the licensee and the chief administrator of the licensee's appointing agency, whether the request has been granted or denied.
- (g) A licensee, whose request for a waiver under this section is denied, is entitled to a hearing in accordance with Texas Government Code, Chapter 2001. The licensee must request a hearing within 20 days of the waiver being denied. In a hearing pursuant to this subsection, the licensee is the petitioner and the executive director is the respondent. The burden of proof shall be on the licensee to show why he or she is entitled to a waiver of the legislatively required continuing education requirement.
- (h) The effective date of this section is March 1, 2008.

**§217.19. Reactivation of a License.**

- (a) The commission will place all licenses in an inactive status when the licensee has not been reported to the commission as appointed for more than two years unless the licensee has met and continues to meet the continuing education required by §217.11 of this chapter.
- (b) The holder of an inactive license is unlicensed for purposes of these sections and the Texas Occupations Code, Chapter 1701.

- (c) This section includes any permanent peace officer qualification certificate with an effective date before September 1, 1981.
- (d) This section includes any jailer licenses issued after March 1, 2001.
- (e) Before individuals may be appointed they must:
  - (1) meet the current licensing standards, with successful completion of a basic licensing course current at the time of initial licensure; fulfilling this requirement;
  - (2) successfully complete the legislatively required continuing education for the current training unit;
  - (3) make application and submit any required fee(s) for an endorsement in the format currently prescribed by the commission;
  - (4) obtain an endorsement, issued by the commission, giving the individual eligibility to take the required licensing examination;
  - (5) meet the requirements of §217.3 of this chapter; and
  - (6) pass the licensing examination for the license to be reactivated. After three failures, or if the endorsement expires, the individual must re-qualify by repeating the entire training course for the license sought.
- (f) The effective date of this section is June 1, 2006.

**§217.21. Firearms Proficiency Requirements.**

- (a) Each agency or entity that employs at least two peace officers shall:
  - (1) require each peace officer that it employs to successfully complete the current firearms proficiency requirements at least once each year;
  - (2) designate a firearms proficiency officer to be responsible for the documentation of annual firearms proficiency. The documentation for each officer shall include:
    - (A) date of qualification;
    - (B) identification of officer;
    - (C) firearm manufacturer, model;
    - (D) results of qualifying; and
    - (E) course(s) of fire.
  - (3) keep on file and in a format readily accessible to the commission a copy of all records of this proficiency.
- (b) The annual firearms proficiency requirements shall include:
  - (1) an external inspection by the proficiency officer, range officer, firearms instructor, or gunsmith to determine the safety and functioning of the weapon(s);
  - (2) a proficiency demonstration in the care and cleaning of the weapon(s) used; and
  - (3) a course of fire that meets or exceeds the minimum standards.
- (c) The minimum standards for the annual firearms proficiency course of fire shall be:
  - (1) handguns - a minimum of 50 rounds, including at least five rounds of duty ammunition, fired at ranges from point-blank to at least 15 yards with at least 20 rounds at or beyond seven yards, including at least one timed reload;
  - (2) shotguns - a minimum of five rounds of duty ammunition fired at a range of at least 15 yards;
  - (3) rifles - a minimum of 20 rounds of duty ammunition fired at a range of at least 100 yards; however, an agency may, in its discretion, allow a range of less than 100 yards but not less than 50 yards if the minimum passing percentage is raised to 90;
  - (4) patrol rifles - a minimum of 30 rounds of duty ammunition fired at a range of at least 50 yards, including at least one timed reload; however, an agency may, in its discretion, allow a range of less than 50 yards but not less than 10 yards if the minimum passing percentage is raised to 90;
  - (5) fully automatic weapons - a minimum of 30 rounds of duty ammunition fired at ranges from seven to at least 10 yards, including at least one timed reload, with at least 25 rounds fired in full automatic (short bursts of two or three rounds), and at least five rounds fired semi-automatic, if possible with the weapon.

- (d) The minimum passing percentage shall be 70 for each firearm.
- (e) The executive director may, upon written agency request, waive a peace officer's demonstration of weapons proficiency based on a determination that the requirement causes a hardship.
- (f) The effective date of this section is June 1, 2004.

**§219.1. Eligibility to Take State Examinations.**

- (a) To be eligible to take a state licensing examination, an individual must have a valid endorsement.
- (b) A valid endorsement is based on:
  - (1) a previously completed commission approved basic licensing course;
  - (2) an expired commission licensing examination result, over two years old;
  - (3) reactivating a Texas license under rule §217.19;
  - (4) out of state training, licensing, or certification the Commission accepts as a peace officer, federal or military training; or
  - (5) county corrections training accepted from Texas Occupations Code Chapter §1701.310.
- (c) A valid endorsement shall:
  - (1) be in the approved commission format,
  - (2) be a completed original document bearing all required signatures,
  - (3) state that the examinee has met the current minimum training standards appropriate to the license sought, and
  - (4) include a date of issue and an expiration date.
- (d) For an endorsement to be or remain valid:
  - (1) it must not be issued in error or based on false or incorrect information; specifically, the applicant must meet the current enrollment standards; or if previously licensed, have met the enrollment standards at initial licensure; and
  - (2) it must be presented before its expiration date.
- (e) An endorsement to take an examination is issued by a training coordinator, the registrar of a licensed academic alternative provider, the executive director of the commission, or a person authorized by the executive director. Duplicate endorsements may only be issued by the executive director of the commission.
- (f) In order to issue the endorsement, the person issuing such an endorsement, other than a commission employee, must have on file for the person to whom it is issued, written documentation of successful completion of the basic licensing course for the license sought; and
  - (1) written documentation that the person to whom it is issued was previously licensed by the commission, or
  - (2) if the person is not currently licensed by the commission, written documentation that the applicant meets the current enrollment standards.
- (g) In order to receive an endorsement from the commission, individuals must meet all current requirements, to include submitting any required application currently prescribed by the commission, requested documentation, and any required fee.
- (h) An examination may not be taken by an individual who already holds an active license or certificate to be awarded upon passing that examination.
- (i) Once an endorsement is issued, an examinee will be allowed three opportunities to pass the examination while the examinee's endorsement remains valid. After three failures, the examinee must re-qualify by repeating the entire training course for the license sought. If an attempt is invalidated for any reason, except for a commission error, that attempt will count as one of the three opportunities.
- (j) Once an endorsement from an academic alternative provider expires after three failures individuals will be required to re-qualify by completing the standard coursework for the license sought.
- (k) The effective date of this section is March 1, 2008.

## **§219.2. Reciprocity for Out-of-State Peace Officers and Federal Criminal Investigators**

- (a) To be eligible to take a state licensing examination, an out of state or federal criminal investigator must comply with all provisions of §219.1 of this title and this section.
- (b) Prospective out-of-state peace officer and federal criminal investigator applicants for peace officer licensing in Texas must:
  - (1) meet all statutory licensing requirements of the state of Texas and the rules of the Commission;
  - (2) successfully complete a supplementary peace officer training course, the curriculum of which is developed by the Commission, and
  - (3) successfully pass the Texas Peace Officer Licensing Examination.
- (c) Requirements (Peace Officers): applicants who are peace officers from other U.S. states must meet the following requirements:
  - (1) demonstrate a successful completion of a state POST-approved (or state licensing authority) basic police officer training academy (with equivalent course topics and hours of training at the time of initial certification or licensure);
  - (2) be currently licensed or certified as a peace officer by a state POST (or state licensing authority),
  - (3) the applicant's license or certificate must never have been, nor currently be in the process of being, surrendered, suspended, or revoked; and
  - (4) have honorably served (employed, benefits eligible) as a sworn peace officer for twelve consecutive months, following initial basic training, with an agency in the state where the license or certificate was issued.
- (d) Requirements (Federal): The Texas Code of Criminal Procedures Section 2.122 recognizes certain named criminal investigators of the United States as having the authority to enforce selected state laws by virtue of their authority. These individuals are deemed to have the equivalent training for licensure consideration.
- (e) Qualifying Federal Officers must:
  - (1) have successfully completed an approved federal agency law enforcement training course (equivalent course topics and hours) at the time of initial certification or appointment;
  - (2) have honorably served (employed, benefits eligible) in one of the aforementioned federal capacities for twelve consecutive months, following initial basic training; and
  - (3) be subject to continued employment or eligible for re-hire (excluding retirement).
- (f) Procedures for requesting an endorsement to take state licensing examination:
  - (1) complete the Commission application for endorsement and have it properly notarized;
  - (2) attach a certified check or money order for the currently required fee (non-refundable); and
  - (3) submit the application and fee with all required documents to the Commission by U.S. mail, by courier, or in person.
- (g) Required documents to accompany the application for endorsement:
  - (1) a certified or notarized copy of the basic training certificate for a peace officer, a certified or notarized copy of a federal agent's license or credentials, or a certified or notarized copy of the peace officer license or certificate issued by the state POST;
  - (2) a notarized statement from the state POST, current employing agency or federal employing agency revealing any disciplinary action(s) that may have been taken against any license or certificate issued by that agency or any pending action;
  - (3) a notarized statement from the applicant's employing agency confirming time in service as a peace officer or federal office or agent;
  - (4) a certified or notarized copy of the applicant's valid state-issued driver's license;
  - (5) a certified copy of the applicant's military discharge (DD-214) (if applicable);

- (6) a passport-sized color photograph (frontal, shoulders and face), signed with the applicant's full signature on the back of the photograph; and
- (7) an attached certified check or money order in the amount listed in the agency fee schedule.
- (h) The Commission may request that applicants submit a copy of the basic and advanced training curricula for equivalency evaluation and final approval.
- (i) All out-of-state or federal applicants will be subject to a search of the National Decertification Database (NDD), NCIC/TCIC, and National Criminal History Databases to establish eligibility.
- (j) All documents must bear original certification seals or stamps.
- (k) The effective date of this section is March 1, 2007.

**§219.3. Examination Administration.**

- (a) Each examination may be given by a test administrator or by one or more proctors under the direction of the test administrator. Each administrator or proctor shall be either:
  - (1) a member of the commission staff, or
  - (2) another person designated by the executive director.
- (b) A member of the commission staff, a test administrator, or a proctor shall:
  - (1) set the date, time, and location of any examination;
  - (2) ensure that the examination remains secure and is conducted under conditions warranting honest results;
  - (3) monitor the examination while in progress;
  - (4) control entrance to and exit from the examination site;
  - (5) permit no one in the room while the examination is in progress except proctors, examinees, and commission staff;
  - (6) assign or re-assign seating;
  - (7) bar admission to or dismiss any examinee who is not qualified or eligible to sit for the examination;
  - (8) collect all examination materials from anyone who is dismissed;
  - (9) comply with any testing agreements;
  - (10) record the fact of examination on the endorsement and collect any fraudulent or questionable endorsement; and
  - (11) collect all endorsements and return them to the commission.
- (c) The effective date of this section is March 1, 2008.

**§219.5. Examinee Requirements.**

- (a) To be eligible to sit for an examination, an examinee must:
  - (1) possess and display at the examination site a valid endorsement for the specific type of examination sought;
  - (2) bring to the examination site and display upon request identification issued by the state or federal government with the examinee's photograph;
  - (3) report on time;
  - (4) not disrupt the examination;
  - (5) comply with all the written and verbal instructions of the proctor; and
  - (6) shall not:
    - (A) bring into the examination room any books, notes, or other written material related to the content of the examination;
    - (B) refer to, use, or possess any such written material in the examination room;

- (C) bring into the examination room any cellular phones, pagers, or other such electronic devices;
  - (D) give or receive answers or communicate in any manner with another examinee during the examination;
  - (E) communicate any of the content of an examination to another at any time;
  - (F) steal, copy, or in any way reproduce any part of the examination;
  - (G) engage in any deceptive or fraudulent act to gain admission;
  - (H) engage in any deceptive or fraudulent act during or after an examination; or
  - (I) solicit, encourage, direct, assist or aid another person to violate any provision of this section or to compromise the integrity of the examination.
- (b) The commission may deny or revoke any license or certificate held by a person who violates any of the provision of this section. The commission shall file a criminal complaint against any individual who steals or attempts to steal any portion of the examination, or who engages in any fraudulent act relating to the examination process.
- (c) The effective date of this section is June 1, 2006.

**§219.7. Scoring of Examinations.**

- (a) All official grading and notification shall come from the Austin office of the commission. A notice containing the results will be mailed to the examinee or faxed to the training coordinator or chief administrator.
- (b) The examination results forwarded to training coordinators shall include analyses of the examinees' performances.
- (c) For a score to be or remain valid the examinee must:
  - (1) complete the answer sheet, or otherwise record the answers, as instructed; and
  - (2) continue to meet current enrollment standards.
- (d) An examination score expires two years from the date of its entry into commission records.
- (e) The commission may deny, revoke, or suspend any license or certificate held by a person who violates or attempts to violate any provisions of this section.
- (f) If the commission invalidates an examination score for any reason, it may also, in the discretion of the executive director and for good cause shown, require a reexamination to obtain a substitute valid score.
- (g) Unless provided otherwise by rule, the minimum passing percentage on each examination shall be 70. The commission may, in its discretion, invalidate any question.
- (h) The effective date of this section is March 1, 2008.

**§221.1. Proficiency Certificate Requirements.**

- (a) To qualify for proficiency certificates, applicants must meet all the following proficiency requirements:
  - (1) submit any required application currently prescribed by the commission, requested documentation, and any required fee;
  - (2) have an active license or appointment for the corresponding certificate (not a requirement for Mental Health Officer Proficiency, Homeowners Insurance Inspector Proficiency, Firearms Instructor Proficiency, Firearms Proficiency for Community Supervision Officers, or Instructor Proficiency);
  - (3) officers licensed after the effective date of this rule must not currently have license(s) under suspension by the Commission;
  - (4) meet the continuing education requirements for the previous training cycle; and
  - (5) for firearms related certificates, not be prohibited by state or federal law or rule from attending training related to firearms or from possessing a firearm.
- (b) The commission may refuse an application if:
  - (1) an applicant has not been reported to the commission as meeting all minimum standards, including any training or testing requirements;

- (2) an applicant has not affixed any required signature;
  - (3) required forms are incomplete;
  - (4) required documentation is incomplete, illegible, or is not attached; or
  - (5) an application contains a false assertion by any person.
- (c) The commission shall cancel and recall any certificate if the applicant was not qualified for its issue and it was issued:
- (1) by mistake of the commission or an agency; or
  - (2) based on false or incorrect information provided by the agency or applicant.
- (d) If an application is found to be false, any license or certificate issued to the appointee by the commission will be subject to cancellation and recall.
- (e) Academic degree(s) must be issued by an accredited college or university.
- (f) The effective date of this section is March 1, 2008.

**§221.3. Peace Officer Proficiency.**

- (a) To qualify for a basic peace officer proficiency certificate, an applicant must meet all proficiency requirements including:
- (1) one year experience as a peace officer; and
  - (2) successful completion of a field training course and a course that includes instruction provided by the employing agency on federal and state statutes that relate to employment issues affecting peace officers, including:
    - (A) civil service;
    - (B) compensation, including overtime compensation, and vacation time;
    - (C) personnel files and other employee records;
    - (D) management-employee relations in law enforcement organizations;
    - (E) work-related injuries;
    - (F) complaints and investigations of employee misconduct; and
    - (G) disciplinary actions and the appeal of disciplinary actions.
- (b) To qualify for an intermediate peace officer proficiency certificate, an applicant must meet all proficiency requirements including:
- (1) a basic peace officer certificate;
  - (2) one of the following combinations of training hours or degrees and peace officer experience:
    - (A) 400 training hours and eight years;
    - (B) 800 training hours and six years;
    - (C) 1200 training hours and four years or an associate's degree and four years; or
    - (D) 2400 training hours and two years or a bachelor's degree and two years.
  - (3) if the basic peace officer certificate was issued or qualified for on or after January 1, 1987, the licensee must also complete all of the current intermediate peace officer certification courses, which include:
    - (A) Child Abuse Prevention and Investigation;
    - (B) Crime Scene Investigation;
    - (C) Use of Force;
    - (D) Arrest, Search and Seizure;
    - (E) Spanish for Law Enforcement;
    - (F) Asset Forfeiture;
    - (G) Racial Profiling;
    - (H) Identity Theft; and
    - (I) Crisis Intervention Techniques.
- (c) To qualify for an advanced peace officer proficiency certificate, an applicant must meet all proficiency requirements including:
- (1) an intermediate peace officer certificate;
  - (2) one of the following combinations of training hours or degrees and peace officer experience:

- (A) 800 training hours and 12 years;
- (B) 1200 training hours and nine years or an associate's degree and six years;
- (C) 2400 training hours and six years or a bachelor's degree and five years; and
- (3) If an Intermediate proficiency certificate was earned before September 1, 2006, complete the commission approved course of instruction in crisis intervention techniques.
- (d) To qualify for a master peace officer proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) an advanced peace officer certificate; and
  - (2) one of the following combinations of training hours or degrees and peace officer experience:
    - (A) 1200 training hours and 20 years or an associate's degree and 12 years;
    - (B) 2400 training hours and 15 years or a bachelor's degree and nine years;
    - (C) 3300 training hours and 12 years or a master's degree and seven years, or
    - (D) 4000 training hours and 10 years or a doctoral degree and five years.
- (e) The effective date of this section is March 1, 2008.

**§221.5. Jailer Proficiency.**

- (a) To qualify for a basic jailer proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) one year of experience as a jailer; and
  - (2) successful completion of a field training course and a course that includes instruction provided by the employing agency on federal and state statutes that relate to employment issues affecting jailers, including:
    - (A) civil service;
    - (B) compensation, including overtime compensation, and vacation time;
    - (C) personnel files and other employment records;
    - (D) management-employee relations in law enforcement organizations;
    - (E) work-related injuries;
    - (F) complaints and investigations of employee misconduct; and disciplinary actions and the appeal of disciplinary actions.
- (b) To qualify for an intermediate jailer proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) a basic jailer certificate;
  - (2) training related to the management and operation of a correctional facility (including county jails); and
  - (3) one of the following combinations of training hours or degrees and jailer experience:
    - (A) 400 training hours and six years;
    - (B) 800 training hours and four years;
    - (C) 1200 training hours and two years or an associate's degree and two years; or
    - (D) 2400 training hours and one year or a bachelor's degree and one year.
  - (4) if the basic jailer certificate was issued or qualified for on or after March 1, 1993, the applicant must also complete all of the current intermediate jailer certification courses, which include:
    - (A) Suicide Detection and Prevention in Jails;
    - (B) Inmate Rights and Privileges;
    - (C) Interpersonal Communications in the Correctional Setting;
    - (D) Use of Force in a Jail Setting; and
    - (E) Spanish for Law Enforcement.

- (c) To qualify for an advanced jailer proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) an intermediate jailer certificate; and
  - (2) one of the following combinations of training hours or degrees and jailer experience:
    - (A) 800 training hours and eight years;
    - (B) 1200 training hours and six years or an associate's degree and six years; or
    - (C) 2400 training hours and four years or a bachelor's degree and four years.
- (d) To qualify for a master jailer proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) an advanced jailer certificate; and
  - (2) one of the following combinations of training hours and jailer experience:
    - (A) 1200 training hours and 20 years, or an associate's degree and 12 years;
    - (B) 2400 training hours and 15 years, or a bachelor's degree and nine years;
    - (C) 3300 training hours and 12 years, or a master's degree and seven years; or
    - (D) 4000 training hours and 10 years, or a doctoral degree and five years.
- (e) The effective date of this section is March 1, 2008.

**§221.7. Investigative Hypnosis Proficiency.**

- (a) To qualify for an investigative hypnosis proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) successful completion of the current basic investigative hypnosis course; and
  - (2) pass the approved examination for investigative hypnosis proficiency.
- (b) The effective date of this section is March 1, 2001.

**§221.9. Standardized Field Sobriety Testing Practitioner (SFST).**

- (a) To qualify for a standardized field sobriety testing practitioner certificate, an applicant must meet all proficiency requirements including:
  - (1) successful completion of the current National Highway Traffic Safety Administration (NHTSA) approved SFST Practitioner Course as reported by an approved training provider,
  - (2) currently appointed as a peace officer,
  - (3) two years of experience administering SFST,
  - (4) completion of SFST Practitioner Course, SFST Practitioner Update, DRE Update, SFST instructor, or DRE instructor within past 24 months,
  - (5) demonstrated proficiency in administration of SFST before a certified S.F.S.T. Instructor or NHTSA representative, and
  - (6) submission of completed application, in the format currently prescribed by the commission, and any required fee.
- (b) A SFST practitioner certificate will be valid for two (2) years from date of issue. After that time period, the applicant must re-qualify.
- (c) The effective date of this section is September 1, 2007.

**§221.11. Mental Health Officer Proficiency.**

- (a) To qualify for a mental health officer proficiency certificate, an applicant must meet the following requirements:
  - (1) currently appointed as a peace officer or justice of the peace;
  - (2) at least two years experience as a peace officer or justice of the peace;
  - (3) if not currently a commissioned peace officer, an applicant must meet the current enrollment standards;

- (4) if an applicant is a commissioned peace officer, an applicant must not ever have had a license or certificate issued by the commission suspended or revoked;
  - (5) if an applicant is a commissioned peace officer, an applicant must have met the continuing education requirements for the previous training cycle;
  - (6) successful completion of a training course in emergency first aid and lifesaving techniques (Red Cross or equivalent); and
  - (7) successful completion of the current mental health peace officer training course and pass the approved examination for mental health officer proficiency.
- (b) The effective date of this section is March 1, 2001.

**§221.13. Emergency Telecommunications Proficiency.**

- (a) To qualify for a basic telecommunications proficiency certificate, an applicant must meet all proficiency requirements:
- (1) successful completion of a 40-hour course developed or approved by the commission;
  - (2) successful completion of a departmental field training course;
  - (3) successful completion of TDD/TTY training within the last six (6) months; and
  - (4) one year of experience in public safety telecommunications.
- (b) To qualify for an intermediate telecommunications proficiency certificate, an applicant must meet all proficiency requirements including:
- (1) basic telecommunications certification;
  - (2) at least two years experience in public safety telecommunications;
  - (3) 120 hours of training; and
  - (4) successful completion of TDD/TTY training within the last six (6) months; and
  - (5) if the basic telecommunications certificate was issued or qualified for on or after January 1, 2000, successful completion of required courses as specified by the commission, which include:
    - (A) Cultural Diversity;
    - (B) Ethics for Law Enforcement;
    - (C) Crisis Communications;
    - (D) TCIC/NCIC for Full Access Operators; NLETS/TLETS; or Criminal Law; and
    - (E) Spanish for Law Enforcement.
- (c) To qualify for an advanced telecommunications proficiency certificate, an applicant must meet all proficiency requirements including:
- (1) intermediate telecommunications certificate;
  - (2) at least four years experience in public safety telecommunications; and
  - (3) 240 training hours; and
  - (4) successful completion on TDD/TTY training within the last six (6) months.
- (d) The effective date of this section is December 1, 2007.

**§221.15. Crime Prevention Inspector Proficiency.**

- (a) To qualify for a crime prevention inspector proficiency certificate, an applicant must meet all proficiency requirements including successful completion of the current training course reported by an approved training provider.
- (b) The commission shall make a monthly report to the Department of Insurance, listing persons certified to conduct homeowners insurance inspections, including any individual who is currently reported as both a commissioned peace officer and the holder of a valid crime prevention inspector proficiency certificate.
- (c) The commission shall purge from this report each month the name of any person who:
- (1) loses certification by revocation, suspension, cancellation, or any other means; or
  - (2) holds a crime prevention inspector proficiency certificate and is reported terminated as a peace officer.
- (d) The effective date of this section is March 1, 2001.

**§221.17. Homeowners Insurance Inspector Proficiency.**

- (a) To qualify for a homeowners insurance inspector proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) currently commissioned or appointed as a peace officer or as a building inspector or other official who has been designated by a city or county to serve as an inspector;
  - (2) if not currently a commissioned peace officer, an applicant must meet the current enrollment standards;
  - (3) if an applicant is a commissioned peace officer, they must not ever have had a license or certificate issued by the commission suspended or revoked;
  - (4) if an applicant is a commissioned peace officer, they must have met the continuing education requirements for the previous training cycle;
  - (5) successful completion of the current training course reported by the approved training provider.
- (b) The application for a homeowners insurance inspection certificate must be submitted by the chief administrator of a law enforcement agency of the city or county government which will make the appointment or, if none, by the city or county government administrator who will make the appointment.
- (c) Any agency or governmental entity which has appointed an individual who is not a commissioned peace officer as a homeowners inspector must report to the commission when the individual is no longer appointed by that agency as an inspector. The chief administrator of the law enforcement agency shall send the report within 30 days of such termination whose office made the original report or, if none, by the administrator who made the appointment.
- (d) The effective date of this section is March 1, 2001.

**§221.19. Firearms Instructor Proficiency.**

- (a) To qualify for a firearms instructor proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) at least three years' experience as a licensee or a firearms instructor;
  - (2) holds a current instructor license or certificate issued by the commission; and
  - (3) successful completion of the commission's firearms instructor course, or a firearms instructor course that meets or exceeds the minimum standards established and approved by the commission.
- (b) The effective date of this section is June 1, 2006.

**§221.21. Firearms Proficiency for Community Supervision Officers.**

- (a) To qualify for a firearms proficiency for community supervision officers certificate, an applicant must meet the following requirements including:
  - (1) currently employed as a community supervision officer, probation officer or parole officer by the Texas Department of Criminal Justice (TDCJ) or a community supervision and corrections department; and
  - (2) successful completion of the commission's current firearms training program for community supervision officers.
- (b) The holder of a certificate issued under this section must meet the firearms proficiency requirements at least once every 12 months. Certificates issued under this section expire two years from date of issuance. Upon expiration, a supervision officer may apply for issuance of a renewal certificate. Renewal certificate requirements are the same as those for a new certificate, excluding subsection (a)(2) of this section.
- (c) The effective date of this section is March 1, 2001.

**§221.23. Academic Recognition Award.**

- (a) To qualify, an applicant for an academic recognition award must meet all proficiency requirements including:
  - (1) at least two years experience as either a peace officer, reserve, jailer, or a telecommunicator; and
  - (2) graduation from an accredited college or university with at least an associate's degree.
- (b) The award consists of a certificate and a uniform ribbon, pin, or other insignia.
- (c) The commissioning agency retains authority to permit the wearing and placement of the ribbon, pin, or other insignia.
- (d) The effective date of this section is March 1, 2008.

**§221.25. Civil Process Proficiency.**

- (a) To qualify, an applicant for a civil process proficiency certificate must meet all proficiency requirements including:
  - (1) at least three years full-time salaried experience serving civil process;
  - (2) successful completion of 40 hours of civil process training, with at least 20 hours completed in the current training cycle; and
  - (3) pass the approved examination for civil process proficiency.
- (b) The effective date of this section is March 1, 2001.

**§221.27. Instructor Proficiency.**

- (a) To qualify, an applicant for an instructor proficiency certificate must meet all proficiency requirements, and must have:
  - (1) substantial experience in teaching or in the special field or subject area to be taught, to include:
    - (A) two years' experience as a peace officer, telecommunicator, or jailer;
    - (B) a bachelor's degree and two years of teaching experience; or
    - (C) a graduate degree;
  - (2) successfully completed an instructor training course or its equivalent, as determined by the executive director; and
  - (3) submitted a completed application, in the format currently prescribed by the commission, and any required fee.
- (b) The commission may require documentation of any instructor training or experience by certificates, diplomas, transcripts, letters of verification, or other supporting documents to be submitted upon commission request.
- (c) The effective date of this section is March 1, 2001.

**§221.29. Special Investigator Certificate.**

- (a) To qualify for a special investigator certificate, an applicant must meet all proficiency requirements, including:
  - (1) at least two years full time salaried experience as a peace officer;
  - (2) an intermediate peace officer certificate; and
  - (3) successful completion of the current family violence and sexual assault investigator certification course(s) reported by the approved training provider.
- (b) The effective date of this section is September 1, 2002.

**§221.31. Retired Peace Officer and Federal Law Enforcement Officer Firearms Proficiency**

- (a) The head of a state or local law enforcement agency may allow an honorably retired peace officer the opportunity to demonstrate weapons proficiency in accordance with Occupations Code §1701.357.
- (b) The head of a state law enforcement agency may allow an honorably retired federal criminal investigator or a qualified retired law enforcement officer the opportunity to demonstrate weapons proficiency in accordance with Occupations Code §1701.357.
- (c) The minimum qualification requirements shall be the same as §217.21(c) of this title.

(d) The effective date of this section is October 5, 2008.

**§221.33. Standardized Field Sobriety Testing (S.F.S.T.) Instructor Proficiency.**

- (a) To instruct Standardized Field Sobriety Testing (S.F.S.T.) a person must be certified as a S.F.S.T. Instructor. To qualify for a S.F.S.T. instructor proficiency certificate, an applicant must meet all proficiency requirements including:
  - (1) successful completion of the National Highway Transportation Safety Administration (NHTSA) S.F.S.T. Practitioner course;
  - (2) at least three years' experience as a S.F.S.T. practitioner;
  - (3) current instructor license or certificate issued by the commission;
  - (4) successful completion of the commission approved S.F.S.T. Instructor Course or Drug Recognition Expert (DRE) Instructor Course;
  - (5) completion of a S.F.S.T. Instructor Update Course or DRE Update Course within the last two (2) years;
  - (6) demonstrated proficiency in administration of S.F.S.T. before a certified S.F.S.T. Instructor or NHTSA representative; and
  - (7) submit a completed application, in the format currently prescribed by the commission, and any required fee.
- (b) An S.F.S.T. Instructor proficiency certificate will be valid for two (2) years from date of issue. After that time period, the applicant must re-qualify.
- (c) The effective date of this section is February 1, 2007.

**§223.1. License Action and Notification.**

- (a) The commission may take the following disciplinary actions against individuals licensed under the Occupations Code, Chapter 1701:
  - (1) written reprimand;
  - (2) suspension; or
  - (3) revocation.
- (b) The holder of a commission issued license or certificate must be sent notice of any hearing, or other action or matter before the commission at:
  - (1) the address of the agency shown in commission records to have the holder under current or last appointment;
  - (2) the address shown on the Texas driver's license record of the holder; or
  - (3) any other address requested by the holder in a written request to the executive director;
- (c) An action by the commission to deny, suspend, or revoke one license will, if so pled, also operate against any other commission license or certificate held by the same person.
- (d) The effective date of this section is March 1, 2001.

**§223.3. Answer Required.**

- (a) In order to preserve the right to a hearing as described in §223.1 of this chapter (relating to License Action and Notification), a person whose license the executive director proposes to deny, cancel, suspend, or revoke must file an answer either consenting to the penalty recommended by the executive director in his petition, or requesting a contested case hearing. An answer must be filed not later than 20 days after the date the respondent is provided with notice of the executive director's petition. Failure to file a timely answer may result in the issuance of a default order.
- (b) The answer described in subsection (a) of this section may be in the form of a general denial as that term is used in the district courts of the State of Texas.
- (c) If a respondent fails to file a timely answer as required by subsection (a) of this section, the executive director may recommend to the commission that it enter a default order against the respondent. The executive director may support the motion with documentary evidence, including affidavits, exhibits and pleadings, and oral testimony,

as may be appropriate to demonstrate that the respondent received the petition and failed to file a timely answer. The commission will consider motions for default orders at its quarterly commission meetings. If the executive director moves for issuance of a default order under this section, it is not necessary to set the matter for hearing under §223.7 of this chapter (relating to Contested Cases and Hearings). The commission may grant the default order requested by the executive director, or may order the case referred to SOAH for a contested case hearing.

- (d) If a person files a timely answer as required by subsection (a) of this section, but fails to appear at the contested case hearing after receiving timely and adequate notice, the executive director may move for default judgment against the respondent as provided by SOAH rule, 1 Texas Administrative Code, §155.55.
- (e) Upon issuance of a default order by the commission, notice shall be provided to the respondent in accordance with §223.1 of this chapter (relating to License Action and Notification).
- (f) The effective date of this section is March 1, 2002.

#### **§223.5. Filing of Documents.**

- (a) All petitions, complaints, motions, replies, answers, notices, or other documents relating to any matter before the commission shall be filed with the executive director and shall be deemed filed only when actually received by the executive director or, when appropriate, by SOAH.
- (b) The effective date of this section is March 1, 2001.

#### **§223.7. Contested Cases and Hearings.**

- (a) Contested cases and hearings will be conducted pursuant to the provisions of the Administrative Procedure Act, Government Code, Chapter 2001.
- (b) The effective date of this section is March 1, 2001.

#### **§223.9. Place and Nature of Hearings.**

- (a) All hearings shall be open to the public and shall be held in Austin, unless otherwise provided by the executive director.
- (b) The effective date of this section is March 1, 2001.

#### **§223.11. Proposal for Decision and Exceptions or Briefs.**

- (a) **Following a contested case hearing, the administrative law judge shall prepare a proposal for decision, in accordance with SOAH requirements.**
- (b) Unless right of review has been waived, any adversely affected party may, within 20 days after the date of issuance of the proposal for decision, file exceptions or briefs. Proposed findings of fact and conclusions of law may also be filed. Replies to exceptions, briefs, or proposed findings of fact and conclusions of law shall be filed within 30 days after the issuance of the proposal for decision.
- (c) The effective date for this section is March 1, 2001.

#### **§223.13. Voluntary Surrender of License.**

- (a) A licensee may voluntarily surrender a license:
  - (1) as part of an employee termination agreement;
  - (2) as part of a plea bargain to a criminal charge;
  - (3) as part of an agreed settlement to commission action; or
  - (4) for any other reason.
- (b) A license may be surrendered either permanently or for a stated term.
- (c) Effective dates:

- (1) the beginning date for any surrender shall be the date stated in the request or, if none, the date it was received by the commission;
  - (2) a term surrender shall have its ending date stated in the request;
  - (3) any request without a stated ending date shall be construed as a permanent surrender; and
  - (4) a permanent surrender shall have no ending date.
- (d) A licensee may voluntarily surrender any license by sending, or causing to be sent, a signed, notarized, written request to the executive director, who may accept or reject the request. The signed written request shall indicate that the licensee understands and has knowledge of the consequences of the document being signed. The executive director may accept requests for voluntary surrender submitted to the commission in any other form that indicates the licensee intends to voluntarily surrender the license to the commission. The executive director may liberally construe the intent of any request and may, specifically, construe the surrender of any single commission license to be a surrender of all other licenses held unless the request expressly states otherwise. The surrender should include a summary of the reason for the surrender.
- (e) If accepted, the licensee is no longer licensed under either type of surrender:
- (1) effective on the beginning date of the surrender; and
  - (2) except for permanent surrenders, until such person applies for and meets the requirements of a new license.
- (f) In case of such application for reinstatement, the executive director:
- (1) shall deny the new license based upon any failure to meet the current minimum standards for licensing;
  - (2) may deny a new license of the same or any other type based solely upon a voluntary surrender:
    - (A) if permanent; or
    - (B) if for a term that has not yet expired;
  - (3) may approve the reinstatement and may give notice to any agency or individual named in the original surrender, and then may impose any previously agreed conditions (such as suspensions, probated terms of suspension, etc.).
- (g) The executive director shall inform the commission of any of the following that have occurred since the last meeting:
- (1) any surrender that was accepted; and
  - (2) any application for reinstatement that was granted or denied.
- (h) The effective date of this section is June 1, 2004.

**§223.15. Suspension of License.**

- (a) Unless revocation is explicitly authorized by law, the commission may suspend any license issued by the commission if the licensee:
- (1) violates any provision of these sections;
  - (2) violates any provision of the Occupations Code, Chapter 1701;
  - (3) is convicted of a criminal offense;
  - (4) is charged with the commission of a misdemeanor, adjudication is deferred, and the licensee is placed on community supervision; or
  - (5) has previously received two written reprimands from the commission.
- (b) The commission may suspend a license even though it may have become inactive by some other means, such as:
- (1) expiration;
  - (2) voluntary surrender;
  - (3) two-year break in service; or
  - (4) any other means.
- (c) If a licensee is charged with the commission of a felony, adjudication is deferred, and the licensee is placed on community supervision, the commission shall immediately suspend any license held for a period of 20 years. The suspension of any license under this

- subsection is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee via certified mail that any license held is suspended.
- (d) If a judgment and sentence is entered resulting in a misdemeanor conviction above the grade of a Class C misdemeanor, the term of suspension shall be ten years.
  - (e) The commission may suspend for not less than six months and not more than 24 months the license of a person convicted of a Class C misdemeanor that was directly related to the duties and responsibilities of office, after the commission has considered, where applicable, the factors listed in the revocation section.
  - (f) If the court's judgment or adjudication is deferred for any misdemeanor above the grade of Class C misdemeanor or any family violence offense; and the licensee is then placed on community supervision, the term of suspension shall be equal to the actual time served on community supervision.
  - (g) If a license can be suspended for a community supervision or misdemeanor conviction, the commissioners may, in their discretion and upon proof of mitigating factors, either:
    - (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
    - (2) issue a written reprimand in lieu of suspension.
  - (h) If a license can be suspended for any other reason, the commission, through its executive director may, in its discretion and upon proof of the same mitigating factors, either:
    - (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
    - (2) issue a written reprimand in lieu of suspension.
  - (i) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation. The beginning date of a probation must be within the term of suspension. The beginning date of the suspension shall be:
    - (1) any date agreed to by both parties, which is no earlier than the date of the rule violation;
    - (2) the date the licensee notifies the commission in writing of the rule violation if the commission later receives a signed waiver of suspension from the licensee that was postmarked within 30 days of its receipt;
    - (3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.
  - (j) The executive director shall inform the commissioners of any such probation or reprimand no later than at their next regular meeting. If probated either way, a suspension may not be probated for less than six months.
  - (k) The commission may impose reasonable terms of probation, such as:
    - (1) continued employment requirements;
    - (2) special reporting conditions;
    - (3) special document submission conditions;
    - (4) voluntary duty requirements;
    - (5) no further rule or law violations; or
    - (6) any other reasonable term of probation.
  - (l) A probated license remains probated until:
    - (1) the term of suspension has expired;
    - (2) all other terms of probation have been fulfilled; and
    - (3) a written request for reinstatement has been received and accepted by the commission from the licensee unless the probation has been revoked by the commission for violation of probation; or
    - (4) until revoked.
  - (m) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.

- (n) Before reinstatement, the probation of a suspended license may be revoked upon a showing that any of its terms have been violated before the expiration date of the probation regardless of when the petition is filed. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.
- (o) Once a license has been suspended, the suspension probated, the probation revoked, or the licensee reprimanded, the commission shall send, by regular mail, notice of the action to the chief administrator of any agency shown to have the licensee under either current or latest appointment.
- (p) A suspended license remains suspended until:
  - (1) the term of suspension has expired and the term of court-ordered community supervision has been completed; and
  - (2) a written request for reinstatement has been received from the licensee and accepted by the commission; or
  - (3) the remainder of the suspension is probated and the license is reinstated.
- (q) The effective date of this section is March 1, 2001.

**§223.16. Suspension of License for Constitutionally Elected Officials.**

- (a) Unless revocation is explicitly authorized by law, the commission may suspend any license issued by the commission to a constitutionally elected licensee if the licensee:
  - (1) violates any provision of these sections;
  - (2) violates any provision of the Occupations Code, Chapter 1701;
  - (3) is convicted of a criminal offense;
  - (4) is charged with the commission of a misdemeanor, adjudication is deferred, and the licensee is placed on community supervision; or
  - (5) has previously received two written reprimands from the commission.
- (b) The commission may suspend a license even though it may have become inactive by some other means, such as:
  - (1) expiration;
  - (2) voluntary surrender;
  - (3) two-year break in service; or
  - (4) any other means.
- (c) If a licensee is charged with the commission of a felony, adjudication is deferred, and the licensee is placed on community supervision, the commission shall immediately suspend any license held for a period of 20 years. The suspension of any license under this subsection is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee via certified mail that any license held is suspended.
- (d) If a judgment and sentence is entered resulting in a misdemeanor conviction above the grade of a Class C misdemeanor, the term of suspension shall be ten years.
- (e) The commission may suspend for not less than six months and not more than 24 months the license of a constitutionally elected officer convicted or who receives a deferred adjudication for a Class C misdemeanor that was directly related to the duties and responsibilities of office, after the commission has considered, where applicable, the factors listed in the revocation section.
- (f) If the court's judgment or adjudication is deferred for any misdemeanor above the grade of Class C misdemeanor or any family violence offense, and the licensee is then placed on community supervision, the term of suspension shall be equal to the actual time served on community supervision.
- (g) If a license can be suspended for a community supervision or misdemeanor conviction, the commissioners may, in their discretion and upon proof of mitigating factors, either:
  - (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
  - (2) issue a written reprimand in lieu of suspension.

- (h) If a license can be suspended for any other reason, the commission, through its executive director may, in its discretion and upon proof of the same mitigating factors, either:
  - (1) probate all or part of the suspension term during a probation term of up to twice the maximum suspension term; or
  - (2) issue a written reprimand in lieu of suspension.
- (i) A suspension or probation may be ordered to run concurrently or consecutively with any other suspension or probation. The beginning date of a probation must be within the term of suspension. The beginning date of the suspension shall be:
  - (1) any date agreed to by both parties, which is no earlier than the date of the rule violation;
  - (2) the date the licensee notifies the commission in writing of the rule violation if the commission later receives a signed waiver of suspension from the licensee that was postmarked within 30 days of its receipt;
  - (3) the date the commission final order is entered in a contested case or the date it becomes effective, if that order is appealed.
- (j) The executive director shall inform the commissioners of any such probation or reprimand no later than at their next regular meeting. If probated either way, a suspension may not be probated for less than six months.
- (k) The commission may impose reasonable terms of probation, such as:
  - (1) continued employment requirements;
  - (2) special reporting conditions;
  - (3) special document submission conditions;
  - (4) voluntary duty requirements;
  - (5) no further rule or law violations; or
  - (6) any other reasonable term of probation.
- (l) A probated license remains probated until:
  - (1) the term of suspension has expired;
  - (2) all other terms of probation have been fulfilled; and
  - (3) a written request for reinstatement has been received and accepted by the commission from the licensee unless the probation has been revoked by the commission for violation of probation; or
  - (4) until revoked.
- (m) Twelve months may be added to the term of a new suspension for each separate previous violation that has resulted in either a license suspension, a probated suspension, or a written reprimand before the beginning date of the new suspension.
- (n) Before reinstatement, the probation of a suspended license may be revoked upon a showing that any of its terms have been violated before the expiration date of the probation regardless of when the petition is filed. Upon revocation, the full term of suspension shall be imposed with credit for any time already served on that suspension.
- (o) Once a license has been suspended, the suspension probated, the probation revoked, or the licensee reprimanded, the commission shall send, by regular mail, notice of the action to the chief administrator of any agency shown to have the licensee under either current or latest appointment.
- (p) A suspended license remains suspended until:
  - (1) the term of suspension has expired and the term of court-ordered community supervision has been completed; and
  - (2) a written request for reinstatement has been received from the licensee and accepted by the commission; or
  - (3) the remainder of the suspension is probated and the license is reinstated.
- (q) The effective date of this section is September 1, 2004.

**§223.17 Reinstatement of a License.**

- (a) In order to reinstate a suspended or probated license, or a license that has been suspended due to lack of meeting the legislative required continuing education, a licensee must complete the following requirements:
  - (1) make application, in the format currently prescribed by the commission;
  - (2) submit the reinstatement fee; and
  - (3) meet the current continuing education requirements.
- (b) If the suspension results in a break in service of over two years, then the reinstatement procedure includes the following requirements for attempting the licensing exam:
  - (1) make application, in the format currently prescribed by the commission;
  - (2) submit any required fee(s); and
  - (3) upon approval of the application, the commission will issue the holder of a suspended license an endorsement of eligibility to take the required licensing examination. If failed three times, the applicant may not be issued another endorsement of eligibility until successful completion of the current licensure course.
- (c) The effective date of this section is March 1, 2008.

**§223.19. Revocation of License.**

- (a) The commission shall immediately revoke any license issued by the commission if the licensee is or has been convicted of a felony offense under the laws of this state, another state, or the United States as provided below. The revocation of any license held is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee that any license held is revoked. Notice of revocation shall be sent via certified U.S. Mail to the address shown on the Texas driver's license record of the licensee and to the address of the agency showing the licensee under current or last appointment.
- (b) A deferred adjudication community supervision is not a felony conviction.
- (c) A person is convicted of a felony when an adjudication of guilt on a felony offense is entered against that person by a court of competent jurisdiction whether or not:
  - (1) the sentence is subsequently probated and the person is discharged from community supervision;
  - (2) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or
  - (3) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.
- (d) Except as provided by subsection (a) of this section, the commission may revoke the license of a person who is either convicted of a misdemeanor offense or placed on deferred adjudication community supervision for a misdemeanor or felony offense, if the offense directly relates to the duties and responsibilities of any related office held by that person. In determining whether a criminal offense directly relates to such office, the commission shall, under this subsection, consider:
  - (1) the nature and seriousness of the crime;
  - (2) the relationship of the crime to the purpose for requiring a license for such office;
  - (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
  - (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of such office.
- (e) The commission shall revoke any license issued by the commission if the licensee:
  - (1) is or has been discharged from any military service under less than honorable conditions including specifically:
    - (A) under other than honorable conditions;

- (B) bad conduct;
  - (C) dishonorable; or
  - (D) any other characterization of service indicating bad character.
- (2) has made, submitted, caused to be submitted, or filed a false or untruthful report to the commission;
  - (3) has been found to be in unauthorized possession of any commission licensing examination or portion of a commission licensing examination, or a reasonable facsimile thereof; or
  - (4) violates any section where revocation is the penalty noted.
- (f) Revocation of a license shall permanently disqualify a person from licensing and a license may not be reinstated except when the licensee proves the facts supporting the revocation have been negated, such as:
    - (1) the felony conviction has been reversed or set aside on direct or collateral appeal, or a pardon based on subsequent proof of innocence has been issued;
    - (2) the discharge under less than honorable conditions has been upgraded to honorable conditions;
    - (3) the report alleged to be false or untruthful was found to be truthful; or
    - (4) the section was not violated.
  - (g) During the direct appeal of any appropriate conviction, a license may be conditionally revoked pending resolution of the mandatory direct appeal. The license will remain revoked unless and until the holder proves that the conviction has been set aside on appeal.
  - (h) The holder of any revoked license may informally petition the executive director for reinstatement of that license based upon proof by the licensee that the facts supporting the revocation have been negated.
  - (i) If granted, the executive director shall inform the commissioners of such action no later than at their next regular meeting.
  - (j) If denied, the holder of a revoked license may petition the commission for a hearing to determine reinstatement based upon the same proof.
  - (k) Once a license has been revoked, the commission shall search its files and send, by regular mail, notice of the action to the chief administrator of any agency shown to have the licensee under either current or latest appointment.
  - (l) The commission may revoke a license even though it has become inactive by some other means, such as:
    - (1) expiration;
    - (2) suspension;
    - (3) voluntary surrender;
    - (4) two-year break in service; or
    - (5) any other means.
  - (m) The date of revocation will be the earliest date that:
    - (1) a waiver was signed by the holder; or
    - (2) a final order of revocation was signed by the commissioners.
  - (n) The effective date of this section is October 5, 2008.

**§223.20. Revocation of License for Constitutionally Elected Officials.**

- (a) The commission shall immediately revoke any license issued by the commission to a constitutionally elected officer if the licensee is or has been convicted of a felony offense under the laws of this state, another state, or the United States as provided below. The revocation of any license held is effective immediately when the commission receives a certified copy of a court's judgment and issues notice to the licensee that any license held is revoked. Notice of revocation shall be sent via certified U.S. mail to the address shown on the Texas driver's license record of the licensee and to the address of the agency showing the licensee under current or last appointment.
- (b) A deferred adjudication community supervision is not a felony conviction.

- (c) A constitutionally elected officer is convicted of a felony when an adjudication of guilt on a felony offense is entered against that officer by a court of competent jurisdiction regardless of:
  - (1) the sentence is subsequently probated and the officer is discharged from community supervision;
  - (2) the accusation, complaint, information, or indictment against the officer is dismissed and the officer is released from all penalties and disabilities resulting from the offense; or
  - (3) the officer is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.
- (d) Except as provided by subsection (a) of this section, the commission may revoke the license of a constitutionally elected officer who is either convicted of a misdemeanor offense or placed on deferred adjudication community supervision for a misdemeanor or felony offense, if the offense directly relates to the duties and responsibilities of any related office held by that officer. In determining whether a criminal offense directly relates to such office, the commission shall, under this subsection, consider:
  - (1) the nature and seriousness of the crime;
  - (2) the relationship of the crime to the purpose for requiring a license for such office;
  - (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the officer previously had been involved; and
  - (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of such office.
- (e) Revocation of a license shall permanently disqualify a constitutionally elected officer from licensing, and a license may not be reinstated except when the licensee proves the facts supporting the revocation have been negated, such as:
  - (1) the felony conviction has been reversed or set aside on direct or collateral appeal, or a pardon based on subsequent proof of innocence has been issued;
  - (2) the discharge under less than honorable conditions has been upgraded to honorable conditions;
  - (3) the report alleged to be false or untruthful was found to be truthful; or
  - (4) the section was not violated.
- (f) During the direct appeal of any appropriate conviction, a license may be conditionally revoked pending resolution of the mandatory direct appeal. The license will remain revoked unless and until the holder proves that the conviction has been set aside on appeal.
- (g) The holder of any revoked license may informally petition the executive director for reinstatement of that license based upon proof by the licensee that the facts supporting the revocation have been negated.
- (h) If granted, the executive director shall inform the commissioners of such action no later than at their next regular meeting.
- (i) If denied, the holder of a revoked license may petition the commission for a hearing to determine reinstatement based upon the same proof.
- (j) Once a license has been revoked, the commission shall search its files and send, by regular mail, notice of the action to the chief administrator or supervising authority of any agency shown to have the licensee under either current or latest appointment.
- (k) The commission may revoke a license even though it has become inactive by some other means, such as:
  - (1) expiration;
  - (2) suspension;
  - (3) voluntary surrender;
  - (4) two-year break in service; or
  - (5) any other means.
- (l) The date of revocation will be the earliest date that:

- (1) a waiver was signed by the holder; or
  - (2) a final order of revocation was signed by the commissioners.
- (m) The effective date of this section is October 5, 2008.

**§223.21. Appeal.**

- (a) A person dissatisfied with a final decision of the commission may appeal the decision in accordance with the requirements of the Administrative Procedures Act, Government Code, Chapter 2001.
- (b) All or part of the proceedings of a contested case will be transcribed upon the written request of a party with cost to that party, unless the executive director provides otherwise.
- (c) Any party who appeals a final decision must pay all preparation costs for the original or certified copy of the record of any proceeding to be submitted to the court.
- (d) The effective date of this section is March 1, 2001.

**§225.1. Issuance of Jailer License through a Contract Jail Facility.**

- (a) The commission shall issue a jailer license to an individual appointed by a contract jail facility who meets all the minimum standards for jailer licensure, and submits both the current commission application and any required fees.
- (b) A contract jail facility that appoints an individual who already holds a valid, active jailer license shall meet the appointment requirements of §217.7, including submitting any required fee.
- (c) Before appointing a licensee whose license has expired, a contract jail facility shall meet the appointment requirements of §217.7, including submitting any required fee, and ensure that the individual meets the current minimum standards for licensure.
- (d) A contract jail facility that appoints an individual with a 180-day break in service shall meet the appointment requirements of §217.7, including submitting any required fee.
- (e) The commission shall issue a temporary jailer license to an individual appointed by a contract jail facility who meets all the minimum standards for licensure except for training and testing, and submits both the current commission application and any required fees. A temporary jailer license expires 12 months from the appointment date.
- (f) Individuals licensed as jailers appointed by a contract jail facility shall meet the continuing education requirements in §217.11.
- (g) The effective date of this section is March 1, 2008.

**§225.3. Issuance of Peace Officer License through a Medical Corporation.**

- (a) The commission shall issue a peace officer license to an individual appointed by a medical corporation who meets all the minimum standards for peace officer licensure, and submits both the current commission application and any required fees.
- (b) A medical corporation that appoints an individual who already holds a valid, active peace officer license shall meet the appointment requirements of §217.7, including submitting any required fee.
- (c) Before appointing a licensee whose peace officer license that is not currently active, a medical corporation shall meet the appointment requirements of §217.7, including submitting any required fee, and ensure that the individual meets the current minimum standards for licensure.
- (d) A medical corporation that appoints an individual with a 180-day break in service shall meet the appointment requirements of §217.7, including submitting any required fee.
- (e) Individuals licensed as peace officers appointed by a medical corporation shall meet the continuing education requirements in §217.11.
- (f) The effective date of this section is March 1, 2008.

**§229.1. General Eligibility of Deceased Texas Peace Officers.**

- (a) A deceased Texas peace officer, killed in the line of duty, is eligible for inclusion on the Texas peace officers' memorial if the person was:
  - (1) a Texas peace officer among those listed under the Texas Code of Criminal Procedure, Article 2.12;
  - (2) a Texas peace officer among those licensed by the Texas Commission on Law Enforcement Officer Standards and Education, under the Government Code, Chapter 415, or Occupations Code 1701 a federal law enforcement officer or special agent performing duties in this state, including those officers under Article 2.122, Code of Criminal Procedure;
  - (3) a Texas peace officer among those listed under the Texas Education Code;
  - (4) a Texas peace officer among those named as such by other Texas law;
  - (5) a Texas peace officer who, in historical perspective, would be eligible under any of the preceding criteria; or
  - (6) a Texas corrections officer employed or appointed by a municipal, county or state penal institution.
- (b) The effective date of this section as amended shall be June 1, 2004.

**§229.3. Specific Eligibility of Deceased Texas Peace Officers.**

- (a) A deceased Texas peace officer is eligible for inclusion on the memorial if the fatal incident:
  - (1) was a direct result of a line of duty, on duty incident;
  - (2) was an indirect result but directly attributed to a line of duty, on duty incident;
  - (3) was a direct result of a line of duty, off duty incident;
  - (4) was an indirect result of but directly attributed to a lawful line of duty, off duty incident; or
  - (5) was a direct result of a felonious assault on the Texas peace officer, perpetrated because of the status as a Texas peace officer, regardless of duty status.
- (b) The effective date of this section shall be August 1, 2001.

**§229.5. Determination Standards.**

- (a) The commission, through its executive director, will receive documents and reports to establish a deceased Texas peace officer's eligibility for inclusion on the memorial.
- (b) The executive director shall make every effort to confirm the authenticity of documents and information submitted to the commission and shall cause research to be conducted concerning the reported deaths of Texas peace officers.
- (c) Examples of documents, reports, and petitions which the commission and the executive director should attempt to obtain include, but are not limited to:
  - (1) certified copy of the Law Enforcement Agency incident report or other records;
  - (2) certified copy of the Coroner's report;
  - (3) sworn affidavit completed by the law enforcement agency chief executive officer or any other person with knowledge of the incident accepting responsibility for the information submitted, accompanied by a description detailing the incident and death;
  - (4) certified copy of statements of witnesses to the fatal incident;
  - (5) an original letter or petition of a family member with verified supporting documents;
  - (6) reproduced documents verified by a state or county historical commission chairperson;
  - (7) news articles or other published materials supported by documents listed above; or
  - (8) any other documentation which would reasonably substantiate a finding by the commission.
- (d) The commission shall review the recommendations of the executive director concerning names of deceased Texas peace officers for inclusion on the memorial at a regularly

scheduled meeting and make its final determination. The commission may waive rules for good cause in making its final determination, and nothing in this chapter shall be interpreted as limiting the commission's authority to determine inclusion or exclusion based on the facts of the incident.

- (e) The effective date of this section as amended shall be March 1, 2001.

**§229.7. Deaths Not Included.**

- (a) A Texas peace officer whose death is attributed to natural causes, is not eligible for inclusion, except when a medical condition arises out of a specific response to a violation of the law or an emergency situation causing a Texas peace officer's death, or causing the Texas peace officer's death during or after a period of hospitalization following the specific response to the violation of the law or emergency situation.
- (b) A Texas peace officer whose death is attributed to any of the following is not eligible for inclusion:
  - (1) when caused as a result of or during the Texas peace officer's commission of a crime;
  - (2) as a direct result of the Texas peace officer's voluntary alcohol or controlled substance abuse; or
  - (3) when caused by the Texas peace officer's intention to bring about the Texas peace officer's own death.
- (c) The effective date of this section shall be March 1, 2001.

*The following statutes are amended as of the 80th Legislature (2007).*

**Texas Occupations Code**  
**Title 10. Occupations Related To Law Enforcement And Security**  
**Chapter 1701. Law Enforcement Officers**

**Sec. 1701.001. DEFINITIONS.**

In this chapter:

(1) "Commission" means the Commission on Law Enforcement Officer Standards and Education.

(2) "County jailer" means a person employed as a county jail guard under Section 85.005, Local Government Code.

(3) "Officer" means a peace officer or reserve law enforcement officer.

(4) "Peace officer" means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, or other law.

(5) "Public security officer" means a person employed or appointed as an armed security officer by this state or a political subdivision of this state. The term does not include a security officer employed by a private security company that contracts with this state or a political subdivision of this state to provide security services for the entity.

(6) "Reserve law enforcement officer" means a person designated as a reserve law enforcement officer under Section 85.004, 86.012, or 341.012, Local Government Code, or Section 60.0775, Water Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 173, Sec. 2, eff. May 27, 2005.

**Sec. 1701.002. APPLICATION OF SUNSET ACT.**

The Commission on Law Enforcement Officer Standards and Education is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2009.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.003. APPLICATION OF CHAPTER.**

(a) Except as expressly provided by this chapter, this chapter does not:

(1) limit the powers or duties of a municipality or county; or

(2) affect Chapter 143, Local Government Code.

(b) This chapter does not affect a constable or other officer or county jailer elected under the Texas Constitution before September 1, 1985, and does not affect a person who held the office of sheriff before January 1, 1994.

(c) This chapter does not prevent an employing agency from establishing qualifications and standards for hiring or training officers and county jailers that exceed the commission's minimum standards.

(d) A provision of this chapter applying to issuance or revocation of a peace officer license applies to issuance or revocation of a public security officer license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER B. COMMISSION ON LAW ENFORCEMENT  
OFFICER STANDARDS AND EDUCATION**

**Sec. 1701.051. COMMISSION MEMBERSHIP.**

(a) The Commission on Law Enforcement Officer Standards and Education is an agency of this state and consists of nine members appointed by the governor with the advice and consent of the senate as follows:

- (1) three members who are sheriffs, constables, or chiefs of police;
- (2) three members who:
  - (A) are licensed under this chapter, two of whom are peace officers who, at the time of appointment, hold nonsupervisory positions with a law enforcement agency; and
  - (B) have been licensed under this chapter for the five years preceding the date of appointment; and
- (3) three members who represent the public.
  - (b) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.
  - (c) A public officer appointed to the commission serves on the commission as an additional duty of the office.
  - (d) The following officers serve as ex officio members of the commission:
    - (1) the commissioner of higher education of the Texas Higher Education Coordinating Board;
    - (2) the commissioner of the Texas Education Agency;
    - (3) the director of the Department of Public Safety;
    - (4) the executive director of the criminal justice division of the governor's office; and
    - (5) the attorney general.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.052. ELIGIBILITY OF PUBLIC MEMBERS.**

A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

- (1) is registered, certified, or licensed by an occupational regulatory agency in the field of law enforcement;
- (2) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving funds from the commission;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission;
- (4) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or
- (5) is an officer, employee, or paid consultant of a law enforcement labor union.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.**

- (a) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.
- (b) An officer, employee, or paid consultant of a Texas trade association in the field of law enforcement may not be a commission member and may not be an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.
- (c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of law enforcement may not be a commission member and may not be an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.
- (d) A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the commission's operation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.054. TERMS; VACANCY.**

- (a) Appointed commission members serve staggered six-year terms. Every two years:
- (1) the term of one of the members appointed under Section 1701.051(a)(1) expires;
  - (2) the term of one of the members appointed under Section 1701.051(a)(2) expires; and
  - (3) the term of one of the members appointed under Section 1701.051(a)(3) expires.
- (b) A vacancy in an office of a member of the commission shall be filled for the unexpired term.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.055. OFFICERS; QUORUM; VOTING.**

- (a) The governor shall designate a commission member to serve as the commission's presiding officer. The presiding officer serves in that capacity at the will of the governor.
- (b) At its first meeting after appointment of members to serve regular terms, the commission shall elect an assistant presiding officer and a secretary from its appointed members.
- (c) Five members, excluding ex officio members, constitute a quorum.
- (d) An ex officio member may not vote.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.056. GROUNDS FOR REMOVAL.**

- (a) It is a ground for removal from the commission that a member:
- (1) does not have at the time of appointment the qualifications required by Section 1701.051(a) or 1701.052;
  - (2) does not maintain during service on the commission the qualifications required by Section 1701.051(a) or 1701.052;
  - (3) violates a prohibition established by Section 1701.053;
  - (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
  - (5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year.
- (b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.
- (c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the commission's presiding officer of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall notify the governor and the attorney general that a potential ground for removal exists.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.057. COMPENSATION; REIMBURSEMENT.**

- (a) A commission member may not receive compensation for service on the commission.
- (b) A commission member is entitled to reimbursement for actual and necessary expenses incurred in performing functions under this chapter.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.058. MEETINGS.**

- (a) The commission shall meet at least once during each biennium to receive public comment on training and standards for officers and county jailers. Within a reasonable time after the meeting, the commission shall report to the governor and legislature findings and recommendations resulting from the meeting.
- (b) The commission may meet at other times and places in this state that the commission considers proper. The presiding officer may call a meeting on the officer's own motion and shall call a meeting on the written request of five members.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.059. TRAINING.**

(a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with this section.

(b) The training program shall provide information to a member regarding:

- (1) this chapter;
- (2) the programs operated by the commission;
- (3) the role and functions of the commission;
- (4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the commission;
- (6) the results of the most recent formal audit of the commission;
- (7) the requirements of Chapters 551, 552, and 2001, Government Code;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act, as if the person were a member of the commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.060. APPLICATION OF OPEN RECORDS LAW AND ADMINISTRATIVE PROCEDURE LAW.**

Except as provided by Sections 1701.502 and 1701.503, the commission is subject to Chapters 551 and 2001, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER C. EXECUTIVE DIRECTOR AND PERSONNEL**

**Sec. 1701.101. EXECUTIVE DIRECTOR.**

The commission may employ an executive director.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.102. PERSONNEL.**

The commission may employ personnel necessary to perform commission functions.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.103. DIVISION OF RESPONSIBILITIES.**

The commission shall develop and implement policies that clearly define the policy-making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.104. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION.**

The executive director or the executive director's designee shall provide, as often as necessary, to the commission's members and employees information regarding their:

- (1) qualifications for office or employment under this chapter; and
- (2) responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.105. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS.**

- (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the agency. The program must require intra-agency posting of all positions concurrently with any public posting.
- (b) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for commission employees must be based on this system.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.106. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT.**

(a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure implementation of an equal employment opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

- (1) personnel policies, including policies related to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;
- (2) a comprehensive analysis of the commission workforce that meets federal and state laws, rules, and regulations and instructions promulgated directly from those laws, rules, and regulations;
- (3) procedures by which a determination can be made of underuse in the commission workforce of all persons for whom federal or state laws, rules, and regulations and instructions promulgated directly from those laws, rules, and regulations encourage a more equitable balance; and
- (4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must:

- (1) cover an annual period;
- (2) be updated annually;
- (3) be reviewed by the Commission on Human Rights for compliance with Subsection (a)(1); and
- (4) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports to the legislature.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER D. POWERS AND DUTIES OF COMMISSION**

**Sec. 1701.151. GENERAL POWERS OF COMMISSION; RULEMAKING AUTHORITY.**

The commission may:

- (1) adopt rules for the administration of this chapter and for the commission's internal management and control;
- (2) establish minimum standards relating to competence and reliability, including education, training, physical, mental, and moral standards, for licensing as an officer, county jailer, or public security officer;
- (3) report to the governor and legislature on the commission's activities, with recommendations on matters under the commission's jurisdiction, and make other reports that the commission considers desirable;
- (4) require a state agency or a county, special district, or municipality in this state that employs officers or county jailers to submit reports and information;
- (5) contract as the commission considers necessary for services, facilities, studies, and reports required for:
  - (A) cooperation with municipal, county, special district, state, and federal law enforcement agencies in training programs; and

(B) performance of the commission's other functions; and  
(6) conduct research and stimulate research by public and private agencies to improve law enforcement and police administration.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.152. RULES RELATING TO HIRING DATE OF PEACE OFFICER.**

The commission may not adopt or enforce a rule that sets the date of appointment of a peace officer at a later date than the date that appears on employment records of the hiring law enforcement agency.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.153. REPORTS FROM AGENCIES AND SCHOOLS.**

(a) The commission shall establish reporting standards and procedures for:

- (1) appointment and termination of officers and county jailers by law enforcement agencies;
- (2) the activities of licensed training schools; and
- (3) other matters the commission considers necessary for the administration of this chapter.

(b) The commission shall furnish each agency and licensed training school with the required reporting forms.

(c) The chief administrative officer of a law enforcement agency or licensed training school is responsible for compliance with the reporting standards and procedures prescribed by the commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.154. FEES.**

The commission may establish reasonable and necessary fees for the administration of this chapter, including reasonable and necessary fees for the administration of Section 1701.257.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.155. GIFTS AND GRANTS.**

The commission may accept grants or gifts from private individuals, foundations, or the federal government.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.156. LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION FUND.**

(a) The law enforcement officer standards and education fund account is in the general revenue fund.

(b) The commission shall use the account in administering this chapter and performing other commission duties established by law.

(c) Money in the account at the end of the state fiscal year, other than money encumbered by the commission and money allocated by the comptroller under Section 1701.157, shall be transferred to the general revenue fund.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1158, Sec. 87, eff. Sept. 1, 2001.

**Sec. 1701.157. MONEY ALLOCATED AND USED FOR CONTINUING EDUCATION.**

(a) Not later than March 1 of each calendar year, the comptroller shall allocate money deposited during the preceding calendar year in the general revenue fund to the credit of the law enforcement officer standards and education fund account for expenses related to the continuing education of persons licensed under this chapter as follows:

- (1) 20 percent of the money is allocated to all local law enforcement agencies in this state in equal shares; and

(2) 80 percent of the money is allocated to all local law enforcement agencies in this state in a share representing a fixed amount for each position in the agency, as of January 1 of the preceding calendar year, that is reserved to a person who:

(A) is licensed under this chapter;

(B) works as a peace officer on the average of at least 32 hours a week; and

(C) is compensated by a political subdivision of this state at least at the minimum wage and is entitled to all employee benefits offered to a peace officer by the political subdivision.

(b) Not later than November 1 of each calendar year, each local law enforcement agency shall report to the comptroller the number of agency positions described by Subsection (a)(2) as of January 1 of that year.

(c) The head of a law enforcement agency shall maintain a complete and detailed written record of money received and spent by the agency under this section. Money received under this section is subject to audit by the comptroller. Money spent under this section is subject to audit by the state auditor.

(d) A local law enforcement agency shall use money received under Subsection (a) only as necessary to ensure the continuing education of persons licensed under this chapter or to provide necessary training, as determined by the agency head, to full-time fully paid law enforcement support personnel in the agency.

(e) A local law enforcement agency may not use money received under Subsection (a) to replace funds that are provided to the agency by the county or municipality having jurisdiction over the agency on a recurring basis for training law enforcement officers and support personnel.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **Sec. 1701.158. ANNUAL REPORT.**

(a) The commission shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year.

(b) The report must meet the reporting requirements applicable to financial reporting provided by the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **Sec. 1701.159. ACTIVE AND INACTIVE PEACE OFFICERS.**

(a) The commission shall establish a list of active licensed peace officers and a list of inactive licensed peace officers who leave the employment of a law enforcement agency.

(b) A retired peace officer as defined by Section 1701.3161 continues to hold as an inactive license the license the retired officer held at the time the retired officer last served as an elected, appointed, or employed peace officer unless the license was revoked for cause under Section 1701.501.

(c) A retired peace officer who holds an inactive license may not serve as a peace officer unless the person reactivates the license as provided by Section 1701.316 or 1701.3161.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 878, Sec. 1, eff. June 15, 2007.

#### **Sec. 1701.160. AUTHORITY TO COMMISSION INVESTIGATORS AS PEACE OFFICERS.**

The commission may commission certified peace officers as investigators employed by the commission for the limited purpose of assisting the commission in administering this chapter.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.501(a), eff. Sept. 1, 2001.

#### **Sec. 1701.161. PROVISION OF STATE FLAG TO NEXT OF KIN OF DECEASED PEACE OFFICER.**

(a) If the next of kin of a deceased peace officer requests a state flag, the commission shall:

(1) provide a state flag, at no cost to the next of kin, if the peace officer was:

(A) a current peace officer at the time of the officer's death; or

(B) an honorably retired peace officer who voluntarily terminated employment with a law enforcement agency of this state or a political subdivision of this state; and  
(2) notify the office of the governor of the death of the peace officer.  
(b) The commission may apply for and accept gifts and grants from public and private entities on behalf of the Texas peace officer flag account.  
(c) The commission shall deposit any gift or grant accepted by the commission under Subsection (b) to the credit of the Texas peace officer flag account. The Texas peace officer flag account is a special account in the general revenue fund. Money in the account may be appropriated only to the commission for the purpose of implementing this section. Interest earned on money in the Texas peace officer flag account shall be credited to the account.  
Added by Acts 2001, 77th Leg., ch. 476, Sec. 5, eff. Sept. 1, 2001.  
Amended by:  
Acts 2005, 79th Leg., Ch. 744, Sec. 4, eff. September 1, 2005.

## **SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES**

### **Sec. 1701.201. PUBLIC INTEREST INFORMATION.**

(a) The commission shall prepare information of public interest describing the regulatory functions of the commission and the procedures by which public complaints are filed with and resolved by the commission.  
(b) The commission shall make the information available to the public and appropriate state agencies.  
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

### **Sec. 1701.202. COMPLAINTS.**

The commission shall provide the commission's policies and procedures relating to complaint investigation and resolution to a person filing a complaint and to each person that is the subject of the complaint.  
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

### **Sec. 1701.203. RECORDS OF COMPLAINTS.**

(a) The commission shall keep an information file about each written complaint filed with the commission that the commission has authority to resolve. The information file must include:  
(1) the date the complaint is received;  
(2) the name of the complainant;  
(3) the subject matter of the complaint;  
(4) a record of each person contacted in relation to the complaint;  
(5) a summary of the results of the review or investigation of the complaint; and  
(6) an explanation of the reason that a complaint was closed without action by the commission.  
(b) The commission, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.  
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

### **Sec. 1701.204. PUBLIC PARTICIPATION.**

(a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the commission's jurisdiction.

(b) The commission shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the commission's programs and services.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

## **SUBCHAPTER F. TRAINING PROGRAMS AND SCHOOLS**

### **Sec. 1701.251. TRAINING PROGRAMS; INSTRUCTORS.**

(a) The commission shall establish and maintain training programs for officers and county jailers. The training shall be conducted by the commission staff or by other agencies and institutions the commission considers appropriate.

(b) The commission may authorize reimbursement for a political subdivision or state agency as authorized by the legislature for expenses incurred in attending a training program.

(c) The commission may:

(1) issue or revoke the license of a school operated by or for this state or a political subdivision of this state specifically for training officers, county jailers, or recruits;

(2) operate schools and conduct preparatory, in-service, basic, and advanced courses in the schools, as the commission determines appropriate, for officers, county jailers, and recruits;

(3) issue a license to a person to act as a qualified instructor under conditions that the commission prescribes; and

(4) consult and cooperate with a municipality, county, special district, state agency or other governmental agency, or a university, college, junior college, or other institution, concerning the development of schools and training programs for officers and county jailers.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

### **Sec. 1701.252. PROGRAM AND SCHOOL REQUIREMENTS; ADVISORY BOARD.**

(a) Unless a school has created an advisory board for developing a curriculum, the commission may not issue a license to the school or approve a training program or course for officers or county jailers other than a program created by the Bill Blackwood Law Enforcement Management Institute of Texas.

(b) At least one-third of the members of an advisory board under Subsection (a) must be public members who meet the qualifications required of a public member of the commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

### **Sec. 1701.253. SCHOOL CURRICULUM.**

(a) The commission shall establish minimum curriculum requirements for preparatory and advanced courses and programs for schools subject to approval under Section 1701.251(c)(1).

(b) In establishing requirements under this section, the commission shall require courses and programs to provide training in:

(1) the investigation and documentation of cases that involve:

(A) child abuse or neglect;

(B) family violence; and

(C) sexual assault;

(2) issues concerning sex offender characteristics; and

(3) crime victims' rights under Chapter 56, Code of Criminal Procedure, and Chapter 57, Family Code, and the duty of law enforcement agencies to ensure that a victim is afforded those rights.

(c) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on civil rights, racial sensitivity, and cultural diversity for persons licensed under this chapter.

(d) Training in documentation of cases required by Subsection (b) shall include instruction in:

(1) making a written account of the extent of injuries sustained by the victim of an alleged offense;

(2) recording by photograph or videotape the area in which an alleged offense occurred and the victim's injuries; and

(3) recognizing and recording a victim's statement that may be admissible as evidence in a proceeding concerning the matter about which the statement was made.

(e) As part of the minimum curriculum requirements relating to the vehicle and traffic laws of this state, the commission shall require an education and training program on laws relating to the operation of motorcycles and to the wearing of protective headgear by motorcycle operators and passengers. In addition, the commission shall require education and training on motorcycle operator profiling awareness and sensitivity training.

(f) Training for officers and recruits in investigation of cases required by Subsection (b)(1)(B) shall include instruction in preventing dual arrest whenever possible and conducting a thorough investigation to determine which person is the predominant aggressor when allegations of family violence from two or more opposing persons are received arising from the same incident.

(g) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on asset forfeiture under Chapter 59, Code of Criminal Procedure, for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(h) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on racial profiling for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(i) As part of the minimum curriculum requirements, the commission shall establish a statewide comprehensive education and training program on identity theft under Section 32.51, Penal Code, for officers licensed under this chapter. An officer shall complete a program established under this subsection not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier.

(j) As part of the minimum curriculum requirements, the commission shall require an officer to complete a statewide education and training program on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments. An officer shall complete the program not later than the second anniversary of the date the officer is licensed under this chapter or the date the officer applies for an intermediate proficiency certificate, whichever date is earlier. An officer may not satisfy the requirements of this section or Section 1701.402(g) by taking an online course on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 657, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 897, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 929, Sec. 5, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 947, Sec. 4, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1034, Sec. 14, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14.007, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1326, Sec. 8, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 393, Sec. 3, eff. September 1, 2005.

#### **Sec. 1701.254. RISK ASSESSMENT AND INSPECTIONS.**

(a) The commission may visit and inspect a school conducting a training course for officers, county jailers, or recruits and make necessary evaluations to determine if the school complies with this chapter and commission rules.

(b) The commission shall develop a risk assessment method to determine the relative performance of schools conducting training courses for officers, county jailers, or recruits. The commission shall base its schedule for inspection of schools on the results of the risk assessment.

(c) The risk assessment method must:

- (1) consider the scores of students enrolled in a school on the basic peace officer examination;
  - (2) consider the past inspection records of a school;
  - (3) consider a self-assessment performed by a school in a noninspection year; and
  - (4) include a random element to ensure periodic inspection of each school.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.255. ENROLLMENT QUALIFICATIONS.**

(a) The commission by rule shall establish minimum qualifications for a person to enroll in a training program under Section 1701.251(a) that provides instruction in defensive tactics, arrest procedures, firearms, or use of a motor vehicle for law enforcement purposes.

(b) A person who is disqualified by law to be an officer or county jailer may not enroll in a training program described by Subsection (a).

(c) A person may not enroll in a peace officer training program under Section 1701.251(a) unless the person has received:

- (1) a high school diploma;
- (2) a high school equivalency certificate and has completed at least 12 hours at an institution of higher education with at least a 2.0 grade point average on a 4.0 scale; or
- (3) an honorable discharge from the armed forces of the United States after at least 24 months of active duty service.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1441, Sec. 1, eff. Sept. 1, 2001.

**Sec. 1701.256. INSTRUCTION IN WEAPONS PROFICIENCY REQUIRED.**

A peace officer training program under Section 1701.251(a) must provide instruction in weapons proficiency.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.257. FIREARMS TRAINING PROGRAM FOR SUPERVISION OFFICERS.**

(a) The commission and the Texas Department of Criminal Justice by rule shall adopt a memorandum of understanding that establishes each agency's respective responsibilities in developing a basic training program in the use of firearms by community supervision and corrections department officers and parole officers. The program established under the memorandum of understanding must provide instruction in:

- (1) legal limitations on the use of firearms and on the powers and authority of the officers;
- (2) range firing and procedure;
- (3) firearms safety and maintenance; and
- (4) other topics determined by each agency to be necessary for the responsible use of firearms by the officers.

(b) The commission shall administer the training program and shall issue a certificate of firearms proficiency to each community supervision and corrections department officer or parole officer the commission determines has successfully completed the program.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER G. LICENSE REQUIREMENTS;  
DISQUALIFICATIONS AND EXEMPTIONS**

**Sec. 1701.301. LICENSE REQUIRED.**

Except as provided by Sections 1701.310 and 1701.311, a person may not appoint a person to serve as an officer, county jailer, or public security officer unless the person appointed holds an appropriate license issued by the commission.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.302. CERTAIN ELECTED LAW ENFORCEMENT OFFICERS; LICENSE REQUIRED.**

(a) An officer, including a sheriff, elected under the Texas Constitution or a statute or appointed to fill a vacancy in an elective office must obtain a license from the commission not later than the second anniversary of the date the officer takes office.

(b) The commission shall establish requirements for issuing the license and for revocation, suspension, or denial of the license.

(c) An officer to whom this section applies who does not obtain the license by the required date or does not remain licensed is incompetent and is subject to removal from office under Section 665.052, Government Code, or another removal statute.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.303. LICENSE APPLICATION; DUTIES OF APPOINTING ENTITY.**

(a) A law enforcement agency or governmental entity that hires a person for whom a license is sought must file an application with the commission as provided by commission rule.

(b) A person who appoints an officer or county jailer licensed by the commission shall notify the commission not later than the 30th day after the date of the appointment. If the person appoints an individual who previously served as an officer or county jailer and the appointment occurs after the 180th day after the last date of service as an officer or county jailer, the person must have on file for the officer or county jailer in a form readily accessible to the commission:

(1) new criminal history record information;

(2) a new declaration of psychological and emotional health and lack of drug dependency or illegal drug use; and

(3) two completed fingerprint cards.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999

**Sec. 1701.304. EXAMINATION.**

(a) The commission shall conduct an examination for each type of license issued by the commission at least four times each year at times and places designated by the commission. The commission shall:

(1) prescribe the content of an examination for each type of license;

(2) include in each examination a written examination that tests the applicant's knowledge of the appropriate occupation; and

(3) prescribe standards for acceptable performance on each examination.

(b) The commission by rule shall establish minimum qualifications for a person to be examined under this section. A person who is disqualified by law to be an officer or county jailer may not take an examination under this section.

(c) A law enforcement agency may request the commission to conduct examinations required by this chapter in the jurisdiction served by the agency. The commission may conduct the examinations in the jurisdiction if:

(1) the commission determines that doing so will not place a significant hardship on the commission's resources; and

(2) the requesting law enforcement agency reimburses the commission for additional costs incurred in conducting the examination in the agency's jurisdiction.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.305. EXAMINATION RESULTS.**

(a) The commission shall notify each examinee of the examination results not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national testing service, the commission shall notify each examinee of the examination results not later than the 14th day after the date the commission receives the results from the testing service.

(b) If notice of the results of an examination graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the commission shall notify each examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails an examination, the commission shall provide to the person an analysis of the person's performance on the examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **Sec. 1701.306. PSYCHOLOGICAL AND PHYSICAL EXAMINATION.**

(a) The commission may not issue a license to a person as an officer or county jailer unless the person is examined by:

(1) a licensed psychologist or by a psychiatrist who declares in writing that the person is in satisfactory psychological and emotional health to serve as the type of officer for which a license is sought; and

(2) a licensed physician who declares in writing that the person does not show any trace of drug dependency or illegal drug use after a physical examination, blood test, or other medical test.

(b) An agency hiring a person for whom a license as an officer or county jailer is sought shall select the examining physician and the examining psychologist or psychiatrist. The agency shall prepare a report of each declaration required by Subsection (a) and shall maintain a copy of the report on file in a format readily accessible to the commission. A declaration is not public information.

(c) The commission shall adopt rules that:

(1) relate to appropriate standards and measures to be used by a law enforcement agency in reporting the declarations made under Subsection (a); and

(2) provide for exceptional circumstances in the administration of the examination of the applicant's psychological and emotional health, including permitting the examination to be made by a qualified licensed physician instead of a psychologist or psychiatrist.

(d) The commission may order an applicant to submit to an examination described by Subsection (a) by a psychologist, psychiatrist, or physician appointed by the commission if the commission:

(1) has cause to believe that a law enforcement agency failed to follow commission rules relating to an examination; or

(2) discovers that the applicant has submitted a false declaration.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **Sec. 1701.307. ISSUANCE OF LICENSE.**

(a) The commission shall issue an appropriate license to a person who, as required by this chapter:

(1) submits an application;

(2) completes the required training;

(3) passes the required examination;

(4) is declared to be in satisfactory psychological and emotional health and free from drug dependency or illegal drug use; and

(5) demonstrates weapons proficiency.

(b) The commission may issue a permanent license to a person who meets the requirements of this chapter and the rules prescribed by the commission to serve as an officer.

(c) The commission may issue a temporary or permanent license to a person to serve as a county jailer.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 878, Sec. 2, eff. June 15, 2007.

#### **Sec. 1701.308. WEAPONS PROFICIENCY.**

The commission shall require a person applying for a peace officer license to demonstrate weapons proficiency.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.309. AGE REQUIREMENT.**

The commission by rule shall set 21 years of age as the minimum age for obtaining a license as an officer. The rules must provide that a person at least 18 years of age may be issued a license as an officer if the person has:

- (1) completed and received credit for at least 60 hours of study at an accredited college or university or received an associate degree from an accredited college or university; or
- (2) received an honorable discharge from the United States armed forces after at least two years of service.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.310. APPOINTMENT OF COUNTY JAILER; TRAINING REQUIRED.**

(a) Except as provided by Subsection (e), a person may not be appointed as a county jailer, except on a temporary basis, unless the person has satisfactorily completed a preparatory training program, as required by the commission, in the operation of a county jail at a school operated or licensed by the commission.

(b) A county jailer appointed on a temporary basis who does not satisfactorily complete the preparatory training program before the first anniversary of the date that the person is appointed shall be removed from the position. A temporary appointment may not be renewed, except that not earlier than the first anniversary of the date that a person is removed under this subsection, the sheriff may petition the commission for reinstatement of the person to a temporary appointment.

(c) A county jailer serving under permanent appointment before September 1, 1979, regardless of whether the person's employment was terminated before that date because of failure to satisfy standards adopted under Chapter 511, Government Code, is not required to meet a requirement of this section as a condition of continued employment or promotion unless:

- (1) in an attempt to meet the standards the person took an examination and failed or was not allowed to finish the examination because the person acted dishonestly in regard to the examination;
- (2) the person forged a document purporting to show that the person meets the standards; or
- (3) the person seeks a new appointment as a county jailer on or after September 1, 1984.

(d) A county jailer serving under permanent appointment before September 1, 1979, is eligible to attend training courses in the operation of a county jail, subject to commission rules.

(e) A person trained and certified by the Texas Department of Criminal Justice to serve as a corrections officer in that agency's institutional or state jail division is not required to complete the training requirements of this section to be appointed a part-time county jailer. Examinations under Section 1701.304 and psychological and physical examinations under Section 1701.306 apply.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.502(a), eff. Sept. 1, 2001.

**Sec. 1701.311. PROVISIONAL LICENSE FOR WORKFORCE SHORTAGE.**

(a) The commission shall adopt rules to allow a law enforcement agency to petition for issuance of a provisional license for an officer if the agency proves that it has a workforce shortage.

(b) Except in an emergency, a peace officer holding a provisional license may not be required to work at the peace officer's employing agency and attend a commission-approved basic preparatory school for more than a total of 40 hours a week.

(c) An agency employing a peace officer who holds a provisional license may contract with the peace officer for reimbursement of the cost of a basic preparatory training course if the peace officer voluntarily resigns from the agency before a date specified in the contract that is not later

than the first anniversary of the date the officer is appointed. The contract must state the cost of the course.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.312. DISQUALIFICATION: FELONY CONVICTION OR PLACEMENT ON COMMUNITY SUPERVISION.**

(a) A person who has been convicted of a felony is disqualified to be an officer, public security officer, or county jailer, and the commission may not issue a license to, and a law enforcement agency may not appoint or employ, the person.

(b) For purposes of this section and Section 1701.502, a person is convicted of a felony if a court enters an adjudication of guilt against the person on a felony offense under the laws of this or another state or the United States, regardless of whether:

(1) the sentence is subsequently probated and the person is discharged from community supervision;

(2) the accusation, complaint, information, or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense; or

(3) the person is pardoned for the offense, unless the pardon is granted expressly for subsequent proof of innocence.

(c) The commission, on receipt of a certified copy of a court's judgment under Article 42.011, Code of Criminal Procedure, shall note on the person's licensing records the conviction or community supervision indicated by the judgment.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.313. DISQUALIFICATION: CONVICTION OF BARRATRY.**

(a) A person who has been convicted of barratry under Section 38.12, Penal Code, is disqualified to be an officer or county jailer, and the commission may not issue a license to the person.

(b) For purposes of this section and Section 1701.503, a person is convicted of barratry if a court enters an adjudication of guilt against the person regardless of whether:

(1) the sentence is subsequently probated and the person is discharged from community supervision;

(2) the accusation, complaint, information, or indictment against the person is dismissed following community supervision; or

(3) the person is pardoned for the offense, unless the pardon is granted expressly for subsequent proof of innocence.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.314. EXEMPTION: OFFICER APPOINTED BEFORE SEPTEMBER 1, 1970.**

A peace officer serving under a permanent appointment before September 1, 1970, is not required to obtain a license as a condition of tenure, continued employment, or promotion unless the officer seeks a new appointment. The officer is eligible to attend peace officer training courses subject to commission rules.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.315. RECORDS.**

The commission is entitled to access to records maintained under Sections 1701.303, 1701.306, and 1701.310 by an agency hiring a person to be an officer or county jailer, including records that relate to age, education, physical standards, citizenship, experience, and other matters relating to competence and reliability, as evidence of qualification for licensing of an officer or county jailer.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.316. REACTIVATION OF PEACE OFFICER LICENSE.**

(a) The commission shall adopt rules establishing requirements for reactivation of a peace officer's license after a break in employment.

(b) The commission may consider employment as a peace officer in another state in determining whether the person is required to obtain additional training or testing.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **Sec. 1701.3161. REACTIVATION OF PEACE OFFICER LICENSE: RETIRED PEACE OFFICERS.**

(a) In this section, "retired peace officer" means a person who served as a peace officer in this state who:

(1) is not currently serving as an elected, appointed, or employed peace officer under Article 2.12, Code of Criminal Procedure, or other law;

(2) was eligible to retire from a law enforcement agency in this state or was ineligible to retire only as a result of an injury received in the course of the officer's employment with the law enforcement agency; and

(3) is eligible to receive a pension or annuity for service as a law enforcement officer in this state or is ineligible to receive a pension or annuity only because the law enforcement agency that employed the officer does not offer a pension or annuity to its employees.

(b) The commission shall adopt rules for the reactivation of a retired peace officer's license after a break in employment. The rules must allow a retired peace officer to reactivate the officer's license by completing the continuing education requirements prescribed by Section 1701.351 and completing any other continuing education requirement imposed by law in lieu of successfully completing any examination required by the commission for reactivation.

(c) The commission may waive the reinstatement fee established for the reactivation of a peace officer's license for a retired peace officer who is eligible for reactivation as provided by Subsection (b).

Added by Acts 2007, 80th Leg., R.S., Ch. 878, Sec. 3, eff. June 15, 2007.

### **SUBCHAPTER H. CONTINUING EDUCATION AND YEARLY WEAPONS PROFICIENCY**

#### **Sec. 1701.351. CONTINUING EDUCATION REQUIRED FOR PEACE OFFICERS.**

(a) Each peace officer shall complete at least 40 hours of continuing education programs once every 24 months. The commission may suspend the license of a peace officer who fails to comply with this requirement.

(b) The commission by rule shall provide for waiver of the requirements of this section when mitigating circumstances exist.

(c) The commission shall credit a peace officer with meeting the continuing education requirements of this section if during the relevant 24-month period the peace officer serves on active duty as a member of the United States military for at least 12 months or serves as an elected member of the legislature. Credit for continuing education under this subsection does not affect any requirement to demonstrate continuing weapons proficiency under Section 1701.355.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1157, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1236, Sec. 1, eff. June 18, 2005.

#### **Sec. 1701.352. CONTINUING EDUCATION PROGRAMS.**

(a) The commission shall recognize, prepare, or administer continuing education programs for officers and county jailers.

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program at least once every 48 months that is approved by the commission and consists of:

(1) topics selected by the agency; and

(2) not more than 20 hours of education and training that contain curricula incorporating the learning objectives developed by the commission regarding:

(A) civil rights, racial sensitivity, and cultural diversity; and

(B) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition and documentation of cases that involve child abuse or neglect, family violence, and sexual assault; and

(ii) issues concerning sex offender characteristics.

(c) A course provided under Subsection (b) may use instructional materials developed by the agency or its trainers or by entities having training agreements with the commission in addition to materials included in curricula developed by the commission.

(d) A peace officer appointed to the officer's first supervisory position must receive in-service training on supervision as part of the course provided for the officer under Subsection (b) during the 24-month period after the date of that appointment.

(e) The commission may require a state, county, special district, or municipal agency that appoints or employs a reserve law enforcement officer, county jailer, or public security officer to provide each of those persons with education and training in civil rights, racial sensitivity, and cultural diversity at least once every 48 months.

(f) Training in documentation of cases required by Subsection (b) shall include instruction in:

(1) making a written account of the extent of injuries sustained by the victim of an alleged offense;

(2) recording by photograph or videotape the area in which an alleged offense occurred and the victim's injuries; and

(3) recognizing and recording a victim's statement that may be admissible as evidence in a proceeding concerning the matter about which the statement was made.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1157, Sec. 2, eff. Sept. 1, 2001.

### **Sec. 1701.353. CONTINUING EDUCATION PROCEDURES.**

(a) The commission by rule shall adopt procedures to:

(1) ensure the timely and accurate reporting by agencies and peace officers of information related to training programs offered under this subchapter, including procedures for creating training records for individual peace officers; and

(2) provide adequate notice to agencies and peace officers of impending noncompliance with the training requirements of this subchapter so that the agencies and peace officers may comply within the 24-month period.

(b) The commission shall require agencies to report to the commission in a timely manner the reasons that a peace officer is in noncompliance after the agency receives notice by the commission of the peace officer's noncompliance. The commission shall, following receipt of an agency's report or on a determination that the agency has failed to report in a timely manner, notify the peace officer by certified mail of the reasons the peace officer is in noncompliance and that the commission at the request of the peace officer will hold a hearing as provided by this subsection if the peace officer fails to obtain the required training within 60 days after the date the peace officer receives notice under this subsection. The commission shall conduct a hearing consistent with Section 1701.504 if the peace officer claims that:

(1) mitigating circumstances exist; or

(2) the peace officer failed to complete the required training because the peace officer's employing agency did not provide an adequate opportunity for the peace officer to attend the required training course.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1236, Sec. 2, eff. June 18, 2005.

**Sec. 1701.354. CONTINUING EDUCATION FOR DEPUTY CONSTABLES.**

(a) If the commission requires a state, county, special district, or municipal agency that employs a deputy constable to provide the deputy constable with a training program under Section 1701.352, the commission shall require the deputy constable to attend at least 20 hours of instruction in civil process.

(b) The commission shall adopt rules and procedures concerning a civil process course, including rules providing for:

(1) approval of course content and standards; and

(2) issuance of course credit.

(c) The commission may waive the instruction requirements for a deputy constable under this section:

(1) if a constable requests a waiver for the deputy constable based on a representation that the deputy constable's duty assignment does not involve civil process responsibilities; or

(2) if the deputy constable requests a waiver because of hardship and the commission determines that a hardship exists.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 735, Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 954, Sec. 3, eff. June 18, 2005.

Reenacted by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 12.001, eff. September 1, 2007.

**Sec. 1701.3545. INITIAL TRAINING AND CONTINUING EDUCATION FOR CONSTABLES.**

(a) A public institution of higher education selected by the commission shall establish and offer a program of initial training and a program of continuing education for constables. The curriculum for each program must relate to law enforcement management and civil process issues. The institution selected under this subsection shall develop the curriculum for the programs. The curriculum must be approved by the commission.

(b) Each constable must complete at least 40 hours of continuing education provided by the selected institution under this section each 48-month period. The commission by rule shall establish a uniform 48-month continuing education training period.

(c) An individual appointed or elected to that individual's first position as constable must complete at least 40 hours of initial training for new constables in accordance with Subsections (d) and (e).

(d) A newly appointed or elected constable shall complete the initial training program for new constables not later than the second anniversary of that individual's appointment or election as constable. The initial training program for new constables is in addition to the initial training required by this chapter. The commission by rule shall establish that the first continuing education training period for an individual under Subsection (b) begins on the first day of the first uniform continuing education training period that follows the date the individual completed the initial training program.

(e) The institution selected under Subsection (a) by rule may provide for the waiver of:

(1) all or part of the required 40 hours of initial training for new constables to the extent the new constable has satisfactorily completed equivalent training during the 24 months preceding the individual's appointment or election; or

(2) the continuing education requirements of Subsection (b) for an individual who has satisfactorily completed equivalent continuing education during the preceding 24 months.

(f) An individual who is subject to the continuing education requirements of Subsection (b) is exempt from other continuing education requirements under this subchapter.

(g) The commission shall establish procedures to annually determine the status of the peace officer license of each elected constable and to ensure that constables comply with this section. The commission shall forward to the attorney general's office documentation for each constable who does not comply with this section. A constable who does not comply with this section

forfeits the office and the attorney general shall institute a quo warranto proceeding under Chapter 66, Civil Practice and Remedies Code, to remove the constable from office.

(h) To the extent of a conflict between this section and any other law, this section controls. Added by Acts 2005, 79th Leg., Ch. 954, Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 622, Sec. 1, eff. June 15, 2007.

**Sec. 1701.355. CONTINUING DEMONSTRATION OF WEAPONS PROFICIENCY.**

(a) An agency that employs at least two peace officers shall designate a firearms proficiency officer and require each peace officer the agency employs to demonstrate weapons proficiency to the firearms proficiency officer at least annually. The agency shall maintain records of the weapons proficiency of the agency's peace officers.

(b) On request, the commission may waive the requirement that a peace officer demonstrate weapons proficiency on a determination by the commission that the requirement causes a hardship.

(c) The commission by rule shall define weapons proficiency for purposes of this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.356. CERTAIN OFFICERS: REACTIVATION AND CONTINUING EDUCATION NOT REQUIRED.**

(a) An honorably retired commissioned officer of the Department of Public Safety who is a special ranger under Section 411.023, Government Code, may not be required to undergo training under Section 1701.352(b).

(b) An honorably retired commissioned officer of the Department of Public Safety who is a special ranger under Section 411.023, Government Code, or a retired state employee and who holds a permanent license issued before January 1981 and that was current on January 1, 1995:

(1) has the same rights and privileges as any other peace officer of this state;

(2) holds, notwithstanding Section 1701.316, an active license unless the license is revoked, suspended, or probated by the commission for a violation of this chapter; and

(3) is not subject to Section 1701.351.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14.009, eff. Sept. 1, 2003.

**Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS.**

(a) This section applies only to:

(1) a peace officer;

(2) a federal criminal investigator designated as a special investigator under Article 2.122, Code of Criminal Procedure; and

(3) a qualified retired law enforcement officer who is entitled to carry a concealed firearm under 18 U.S.C. Section 926C and is not otherwise described by Subdivision (1) or (2).

(b) The head of a state or local law enforcement agency may allow an honorably retired peace officer an opportunity to demonstrate weapons proficiency if the retired officer provides to the agency a sworn affidavit stating that:

(1) the officer honorably retired after not less than a total of 15 years of service as a commissioned officer with one or more state or local law enforcement agencies;

(2) the officer's license as a commissioned officer was not revoked or suspended for any period during the officer's term of service as a commissioned officer; and

(3) the officer has no psychological or physical disability that would interfere with the officer's proper handling of a handgun.

(c) The agency shall establish written procedures for the issuance or denial of a certificate of proficiency under this section. The agency shall issue the certificate to a retired officer who satisfactorily demonstrates weapons proficiency under Subsection (b), provides proof that the

officer is entitled to receive a pension or annuity for service with a state or local law enforcement agency or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the retired officer does not offer a pension or annuity to its retired employees, and satisfies the written procedures established by the agency. The agency shall maintain records of any retired officer who holds a certificate issued under this section. For purposes of this subsection, proof that a retired officer is entitled to receive a pension or annuity or is not entitled to receive a pension or annuity only because the agency that last employed the retired officer does not offer a pension or annuity may include a retired peace officer identification card issued under Subchapter H, Chapter 614, Government Code.

(d) A certificate issued under this section expires on the second anniversary of the date the certificate was issued. A retired officer to whom this section applies may request an annual evaluation of weapons proficiency and issuance of a certificate of proficiency as needed to comply with applicable federal or other laws.

(e) The head of a state or local law enforcement agency may set and collect fees to recover the expenses the agency incurs in performing duties under this section.

(f) The amount of a fee set by a county law enforcement agency under Subsection (e) is subject to the approval of the commissioners court of the county. A county law enforcement agency that collects a fee under Subsection (e) shall deposit the amounts collected to the credit of the general fund of the county.

(g) A county law enforcement agency must obtain approval of the program authorized by this section from the commissioners court of the county before issuing a certificate of proficiency under this section.

(h) The head of a state law enforcement agency may allow an honorably retired federal criminal investigator or a qualified retired law enforcement officer to whom this section applies an opportunity to demonstrate weapons proficiency in the same manner as, and subject to the same requirements applicable to, an honorably retired peace officer as described by this section. The agency shall issue a certificate of proficiency to an honorably retired federal criminal investigator or a qualified retired law enforcement officer who otherwise meets the requirements of this section and shall maintain records regarding the issuance of that certificate.

(i) On request of a retired officer who holds a certificate of proficiency under this section, the head of a state or local law enforcement agency may issue to the retired officer identification that indicates that the officer retired from the agency. An identification under this subsection must include a photograph of the retired officer.

Added by Acts 2003, 78th Leg., ch. 325, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1093, Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1179, Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1187, Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1187, Sec. 2, eff. September 1, 2007.

## **SUBCHAPTER I. PROFESSIONAL TRAINING AND RECOGNITION**

### **Sec. 1701.401. PROFESSIONAL ACHIEVEMENT.**

(a) In this section:

(1) "Professional achievement" includes an instance in which an individual through personal initiative, fixity of purpose, persistence, or endeavor creates a program or system that has a significant positive impact on the law enforcement profession that exceeds the normal expectations of job performance.

(2) "Public service" includes an instance in which an individual through initiative creates or participates in a program or system that has a significant positive impact on the general population of a community that exceeds the normal expectations of job performance.

(3) "Valor" includes an act of personal heroism or bravery that exceeds the normal expectations of job performance, including placing one's own life in jeopardy to save another person's life, to prevent serious bodily injury to another, or to prevent the consequences of a criminal act.

- (b) The commission shall issue certificates that recognize professional achievement. For this purpose the commission shall use the employment records of the employing agency.
  - (c) The commission shall adopt rules for issuing achievement awards to peace officers, reserve peace officers, jailers, or custodial officers who are licensed by the commission. The commission's rules shall require recommendations from an elected official of this state or a political subdivision, an administrator of a law enforcement agency, or a person holding a license issued by the commission.
  - (d) The awards shall be given in the name of this state and presented at the State Capitol during May of each year. At a minimum the award shall consist of a document, an appropriate medal, and a ribbon suitable for wearing on a uniform.
  - (e) The awards shall be issued in three areas: valor, public service, and professional achievement.
  - (f) The commission may present not more than 20 awards each year.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.402. PROFICIENCY CERTIFICATES.**

- (a) The commission shall issue certificates that recognize proficiency based on law enforcement training, education, and experience. For this purpose the commission shall use the employment records of the employing agency.
- (b) As a requirement for a basic proficiency certificate, the commission shall require completion of local courses or programs of instruction on federal and state statutes that relate to employment issues affecting peace officers and county jailers, including:
  - (1) civil service;
  - (2) compensation, including overtime compensation, and vacation time;
  - (3) personnel files and other employee records;
  - (4) management-employee relations in law enforcement organizations;
  - (5) work-related injuries;
  - (6) complaints and investigations of employee misconduct; and
  - (7) disciplinary actions and the appeal of disciplinary actions.
- (c) An employing agency is responsible for providing the training required by this section.
- (d) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on asset forfeiture established by the commission under Section 1701.253(g).
- (e) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on racial profiling established by the commission under Section 1701.253(h).
- (f) As a requirement for an intermediate proficiency certificate, an officer must complete an education and training program on identity theft established by the commission under Section 1701.253(i).
- (g) As a requirement for an intermediate proficiency certificate or an advanced proficiency certificate, an officer must complete the education and training program described by Section 1701.253 regarding de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 929, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 947, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14.008, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1326, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 393, Sec. 4, eff. September 1, 2005.

**Sec. 1701.403. INVESTIGATIVE HYPNOSIS.**

- (a) The commission may establish minimum requirements for the training, testing, and certification of peace officers who use investigative hypnosis.
- (b) A peace officer may not use a hypnotic interview technique unless the officer:

- (1) completes a training course approved by the commission; and
  - (2) passes an examination administered by the commission that is designed to test the officer's knowledge of investigative hypnosis.
  - (c) The commission may issue a professional achievement or proficiency certificate to an officer who meets the requirements of Subsection (b).
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.404. CERTIFICATION OF OFFICERS FOR MENTAL HEALTH ASSIGNMENTS.**

- (a) The commission by rule may establish minimum requirements for the training, testing, and certification of special officers for offenders with mental impairments.
  - (b) The commission may certify a sheriff, sheriff's deputy, constable, or other peace officer, or a justice of the peace, as a special officer for offenders with mental impairments if the officer:
    - (1) completes a training course in emergency first aid and lifesaving techniques approved by the commission;
    - (2) completes a training course administered by the commission on mental health issues and offenders with mental impairments; and
    - (3) passes an examination administered by the commission that is designed to test the officer's:
      - (A) knowledge and recognition of the characteristics and symptoms of mental illness, mental retardation, and mental disabilities; and
      - (B) knowledge of mental health crisis intervention strategies for people with mental impairments.
  - (c) The commission may issue a professional achievement or proficiency certificate to an officer who meets the requirements of Subsection (b).
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.405. TELECOMMUNICATORS.**

- (a) In this section:
  - (1) "Communication" means any type of system in which electric or electromagnetic signals are used to transmit information, including a system transmitting information by means of:
    - (A) radio, light, or waves in other portions of the electromagnetic spectrum;
    - (B) wire or cable; or
    - (C) any other medium.
  - (2) "Emergency" means the occurrence or imminent threat of damage, injury, or loss of life or property resulting from an extraordinary natural or man-made cause.
  - (3) "Telecommunicator" means a person acknowledged by the commission and employed by or serving a law enforcement agency who receives, processes, and transmits public safety information and criminal justice data for the agency using a base radio station on a public safety frequency regulated by the Federal Communications Commission or by teletype or other communications system.
- (b) This state or a political subdivision of this state may not appoint or employ a person to act as a telecommunicator unless the person has had at least 40 hours of telecommunicator training as determined by the commission.
- (c) The commission shall accredit telecommunicator training programs that fulfill the minimum requirements for a telecommunicator. The commission shall adopt rules providing for the accreditation of telecommunicator training programs developed and taught by the Department of Public Safety, an institution of higher education, including a junior college, community college, or technical school, or any other entity approved by the commission.
- (d) A person who completes an accredited training program under this section may, by letter to the commission, request a written acknowledgment from the commission that the person has met the minimum requirements for a telecommunicator as determined by the commission. The request must be accompanied, in accordance with commission rules, by evidence of satisfactory completion of an accredited telecommunicator training program. On a determination by the commission that the person meets the minimum requirements for a telecommunicator, the commission shall issue the written acknowledgment to the person.

- (e) This section does not apply to a person who:
    - (1) performs the duties of a telecommunicator; and
    - (2) is employed by a law enforcement agency that:
      - (A) employs 20 or fewer employees; or
      - (B) does not perform law enforcement services on a 24-hour basis.
  - (f) A person performing the duties of a telecommunicator and serving under permanent appointment on and before September 1, 1987, is not required to meet the requirements of this section as a condition of continued employment.
  - (g) Notwithstanding this section, a person may be appointed or serve as a telecommunicator on a temporary or probationary basis or may perform the duties of a telecommunicator in an emergency.
  - (h) A person appointed on a temporary or probationary basis after September 1, 1987, who does not satisfactorily complete an accredited telecommunicator training program before the first anniversary of the date the person is originally appointed shall be removed from the position. The person's temporary or probationary appointment may not be extended for more than one year except that not earlier than the first anniversary of the date the person is removed under this subsection, the employing agency may petition the commission for reinstatement of the person to temporary or probationary employment.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.406. COUNTY JAIL PERSONNEL.**

- (a) Not later than the first anniversary of the date the commission establishes standards for county jail personnel, a county may not employ or use jail personnel who are not certified by the commission.
  - (b) The commission shall establish minimum physical, mental, educational, and moral standards for all persons employed or used in the operation of a county jail.
  - (c) The commission's authority and power applies to all county jail personnel. The commission shall have additional staff to carry out this section.
  - (d) A commission standard requiring a person to have a degree of formal education or the equivalent does not apply to a person who was employed or whose services were used in the operation of a county jail on August 29, 1977.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER J. EMPLOYMENT RECORDS**

**Sec. 1701.451. PREEMPLOYMENT REQUEST FOR EMPLOYMENT TERMINATION REPORT AND SUBMISSION OF BACKGROUND CHECK CONFIRMATION FORM.**

- (a) Before a law enforcement agency may hire a person licensed under this chapter, the agency head or the agency head's designee must:
  - (1) make a written request to the commission for any employment termination report regarding the person that is maintained by the commission under this subchapter; and
  - (2) submit to the commission on the form prescribed by the commission confirmation that the agency:
    - (A) conducted in the manner prescribed by the commission a criminal background check regarding the person;
    - (B) obtained the person's written consent on a form prescribed by the commission for the agency to view the person's employment records;
    - (C) obtained from the commission any service or education records regarding the person maintained by the commission; and
    - (D) contacted each of the person's previous law enforcement employers.
- (a-1) A law enforcement agency that obtains a consent form described by Subsection (a)(2)(B) shall make the person's employment records available to a hiring law enforcement agency on request.

(b) The written request required by Subsection (a)(1) must be on the agency's letterhead and be signed by the agency head or the agency head's designee.

(c) If the commission receives from a law enforcement agency a written request that complies with Subsections (a)(1) and (b), the commission employee having the responsibility to maintain any employment termination report regarding the person who is the subject of the request shall release the report to the agency.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1298, Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1068, Sec. 1, eff. September 1, 2007.

#### **Sec. 1701.452. EMPLOYMENT TERMINATION REPORT.**

(a) The head of a law enforcement agency or the head's designee shall submit a report to the commission on a form prescribed by the commission regarding a person licensed under this chapter who resigns or retires from employment with the law enforcement agency, whose appointment with the law enforcement agency is terminated, or who separates from the law enforcement agency for any other reason. The report must be submitted by the head or the designee not later than the seventh business day after the date the license holder:

(1) resigns, retires, or separates from the agency; or

(2) exhausts all administrative appeals available to the license holder if the license holder was terminated based on an allegation of misconduct.

(b) The head of a law enforcement agency or the head's designee shall include in the report required under Subsection (a) a statement on whether the license holder was honorably discharged, generally discharged, or dishonorably discharged and, as required by the commission, an explanation of the circumstances under which the person resigned, retired, or was terminated. For purposes of this subsection:

(1) "Honorably discharged" means a license holder who, while in good standing and not because of pending or final disciplinary actions or a documented performance problem, retired, resigned, or separated from employment with or died while employed by a law enforcement agency.

(2) "Generally discharged" means a license holder who:

(A) was terminated by, retired or resigned from, or died while in the employ of a law enforcement agency and the separation was related to a disciplinary investigation of conduct that is not included in the definition of dishonorably discharged; or

(B) was terminated by or retired or resigned from a law enforcement agency and the separation was for a documented performance problem and was not because of a reduction in workforce or an at-will employment decision.

(3) "Dishonorably discharged" means a license holder who:

(A) was terminated by a law enforcement agency or retired or resigned in lieu of termination by the agency in relation to allegations of criminal misconduct; or

(B) was terminated by a law enforcement agency or retired or resigned in lieu of termination by the agency for insubordination or untruthfulness.

(c) The commission by rule may further specify the circumstances that constitute honorably discharged, dishonorably discharged, and generally discharged within the definitions provided by Subsection (b).

(d) The head of the law enforcement agency from which a license holder resigns, retires, is terminated, or separates for reasons other than death, or the head's designee, shall provide to the license holder a copy of the report. The report must be provided to the license holder not later than the seventh business day after the date the license holder:

(1) resigns, retires, or separates from the agency; or

(2) exhausts all administrative appeals available to the license holder if the license holder was terminated based on an allegation of misconduct.

(e) If the person who is the subject of the employment termination report is deceased, the head of the law enforcement agency or the head's designee on request shall provide a copy of the

report to the person's next of kin not later than the seventh business day after the date of the request.

(f) The head of a law enforcement agency or the head's designee satisfies the obligation to provide the report required under Subsection (d) or (e) by sending by certified mail:

(1) the report required under Subsection (d) to the last known address of the license holder if the license holder is not otherwise available; or

(2) the report required under Subsection (e) to the last known address of the next of kin if the next of kin who requested the report is not otherwise available.

(g) The head of a law enforcement agency or the head's designee must submit a report under this section each time a person licensed under this chapter resigns, retires, is terminated, or separates for any other reason from the agency. The report is an official government document. Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1298, Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1068, Sec. 2, eff. September 1, 2007.

#### **Sec. 1701.4521. LICENSE SUSPENSION FOR OFFICER DISHONORABLY DISCHARGED.**

(a) The commission shall suspend the license of an officer licensed under this chapter on notification that the officer has been dishonorably discharged if the officer has previously been dishonorably discharged from another law enforcement agency.

(b) An officer whose license is suspended under this section may appeal the suspension in writing to the commission not later than the 30th day after the date the officer is suspended.

(c) After a commission determination, the commission may revoke or reinstate the officer's license in accordance with rules or procedures adopted by the commission under this chapter related to revocation or reinstatement of a license. The commission shall revoke the officer's license if the officer does not appeal the suspension before the 30th day after the date the officer is suspended.

(d) The commission's decision does not affect:

(1) the employment relationship between an officer licensed under this chapter and a law enforcement agency; or

(2) any disciplinary action taken against an officer licensed under this chapter by a law enforcement agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 1068, Sec. 3, eff. September 1, 2007.

#### **Sec. 1701.4525. REQUEST FOR CORRECTION OF REPORT; ADMINISTRATIVE PENALTY; HEARING; APPEAL.**

(a) A person who is the subject of an employment termination report maintained by the commission under this subchapter may contest information contained in the report by submitting to the law enforcement agency and to the commission a written request for a correction of the report and any evidence contesting the information contained in the report not later than the 30th day after the date the person receives a copy of the report. The commission shall allow the head of the law enforcement agency to submit to the commission any evidence rebutting the evidence submitted by the person who is the subject of the report.

(b) The commission may order the head of a law enforcement agency to correct a person's report in a timely manner based on information submitted to the law enforcement agency and to the commission by the person under Subsection (a). An agency head ordered to correct a person's report shall correct the person's report or request a hearing conducted by the State Office of Administrative Hearings. The commission may assess an administrative penalty against an agency head who fails to make a correction or request a hearing under this subsection in a timely manner.

(c) If the commission refuses to order the head of a law enforcement agency to correct the person's report, the person is entitled to a hearing conducted by the State Office of Administrative Hearings.

(d) A proceeding under Subsection (b) to contest the commission's order or under Subsection (c) to correct an employment termination report is a contested case under Chapter 2001, Government Code.

(e) In a proceeding under Subsection (b) to contest the commission's order or under Subsection (c) to correct an employment termination report for an order or report based on alleged misconduct, an administrative law judge shall determine if the alleged misconduct occurred by a preponderance of the evidence regardless of whether the person who is the subject of the report was terminated or the person resigned, retired, or separated in lieu of termination. If the alleged misconduct is not supported by a preponderance of the evidence, the administrative law judge shall order the report to be changed.

(f) The commission shall adopt rules for the administration of this section.  
Added by Acts 2005, 79th Leg., Ch. 1298, Sec. 3, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1068, Sec. 4, eff. September 1, 2007.

#### **Sec. 1701.453. MAINTENANCE OF REPORTS AND STATEMENTS.**

The commission shall maintain a copy of each report and written statement submitted to the commission under this subchapter until at least the 10th anniversary of the date on which the report or statement is submitted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **Sec. 1701.454. CONFIDENTIALITY.**

(a) A report or statement submitted to the commission under this subchapter is confidential and is not subject to disclosure under Chapter 552, Government Code, unless the person resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses.

(b) Except as provided by this subchapter, a commission member or other person may not release the contents of a report or statement submitted under this subchapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 182, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1298, Sec. 4, eff. September 1, 2005.

#### **Sec. 1701.455. SUBPOENA.**

A report or statement submitted to the commission under this subchapter is subject to subpoena only in a judicial proceeding.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

#### **Sec. 1701.456. IMMUNITY FROM LIABILITY.**

(a) The commission is not liable for civil damages for providing information contained in a report or statement maintained by the commission under this subchapter if the commission released the information as provided by this subchapter.

(b) A law enforcement agency, agency head, or other law enforcement official is not liable for civil damages for a report made by that agency or person if the report is made in good faith.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1298, Sec. 5, eff. September 1, 2005.

#### **Sec. 1701.457. LIMITATION ON COMMISSION AUTHORITY.**

This subchapter does not authorize the commission to review disciplinary action taken by a law enforcement agency against a person licensed under this chapter or to issue a subpoena to compel the production of a document prepared or maintained by the agency in connection with a disciplinary matter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.458. VENUE.**

Venue for the prosecution of an offense under Section 37.10, Penal Code, that arises from a report required under this subchapter lies in the county where the offense occurred or in Travis County.

Added by Acts 2007, 80th Leg., R.S., Ch. 1068, Sec. 5, eff. September 1, 2007.

**SUBCHAPTER K. DISCIPLINARY PROCEDURES**

**Sec. 1701.501. DISCIPLINARY ACTION.**

(a) Except as provided by Subsection (d), the commission shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder for a violation of this chapter or a commission rule.

(b) The commission may establish procedures for the revocation of a license issued under this chapter.

(c) The commission by rule may adopt other necessary enforcement procedures.

(d) The commission may revoke a license issued under this chapter to an officer elected under the Texas Constitution only if the officer is convicted of:

(1) a felony; or

(2) a criminal offense directly involving the person's duties as an officer.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 279, Sec. 1, eff. September 1, 2007.

**Sec. 1701.502. FELONY CONVICTION OR PLACEMENT ON COMMUNITY SUPERVISION.**

(a) The commission shall immediately revoke the license of a person licensed under this chapter who is convicted of a felony.

(b) The commission shall immediately suspend the license of a person licensed under this chapter who is charged with a felony and is placed on community supervision regardless of whether the court defers further proceedings without entering an adjudication of guilt.

(c) The commission may reinstate, as provided by commission rules, a license that is suspended under Subsection (b) when the license holder is released from community supervision.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.503. BARRATRY CONVICTION.**

The commission shall immediately revoke the license of a person licensed under this chapter who is convicted of barratry under Section 38.12, Penal Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.504. HEARING.**

(a) Except as provided by Sections 1701.502 and 1701.503, if the commission proposes to suspend or revoke a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings.

(b) If the commission proposes to refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.505. ADMINISTRATIVE PROCEDURE.**

(a) Proceedings for a disciplinary action are governed by Chapter 2001, Government Code.

(b) Rules of practice adopted by the commission under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.506. APPEAL.**

(a) A person dissatisfied with an action of the commission may appeal the action under Chapter 2001, Government Code. The court shall set the matter for hearing not earlier than 10 days after written notice of the appeal is given to the commission and the commission's attorney.

(b) The court may suspend an action of the commission pending a hearing. The order suspending the action takes effect when served on the commission. The commission shall provide its attorney a copy of the petition and order.

(c) The attorney general or the district or county attorney shall represent the commission in the appeal.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER L. CRIMINAL PENALTY**

**Sec. 1701.551. CRIMINAL PENALTY FOR APPOINTMENT OR RETENTION OF CERTAIN PERSONS.**

(a) A person commits an offense if the person appoints or retains another person as an officer or county jailer in violation of Section 1701.301, 1701.303, or 1701.306.

(b) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$100 and not more than \$1,000.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.552. CRIMINAL PENALTY FOR APPOINTMENT OF PERSON NOT CERTIFIED FOR INVESTIGATIVE HYPNOSIS.**

(a) A person commits an offense if the person appoints or retains another person in violation of Section 1701.403.

(b) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$100 and not more than \$1,000.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**Sec. 1701.553. CRIMINAL PENALTY FOR APPOINTMENT OR RETENTION OF PERSONS WITH CERTAIN CONVICTIONS.**

(a) A person commits an offense if the person appoints or retains an individual as an officer, public security officer, or county jailer in violation of Section 1701.312 or 1701.313.

(b) An offense under Subsection (a) is a state jail felony.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

**SUBCHAPTER M. VISITING RESOURCE OFFICER IN PUBLIC SCHOOL**

**Sec. 1701.601. DEFINITION.**

In this subchapter, "school resource officer" means a peace officer who is assigned by the officer's employing political subdivision to provide:

- (1) a police presence at a public school;
- (2) safety or drug education to students of a public school; or
- (3) other similar services.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 2, eff. Sept. 1, 2001.

**Sec. 1701.602. LICENSE REQUIRED.**

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by this chapter.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 2, eff. Sept. 1, 2001.

**Sec. 1701.603. FIREARMS ACCIDENT PREVENTION PROGRAM.**

(a) A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the school district.

(b) A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle GunSafe Program, including animated videos and activity books.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 2, eff. Sept. 1, 2001.

## Cross-Matching Tables for Commission Rules and OC/GC Sections

Table 1: Commission Rules 211.1-219.7

Commission Rule #	Title of Commission Rule	OC [GC] Section(s)
211.1	Definitions	1701.151
211.3	Public Information	1701.060; 201; 202; 203; 204
211.5	Licensee Lists	1701.159
211.7	Meeting Dates and Procedures	1701.058
211.9	Execution of Orders Showing Action Taken at Commission Meetings	1701.060
211.11	Contemplated Rule Making	1701.204
211.13	Notice of Commission Rulemaking	1701.060
211.15	Specific Authority to Waive Rules	1701.151
211.17	Fees and Payment	1701.154
211.19	Forms and Applications	1701.153; 154
211.21	Issuance of Duplicate or Delayed Documents	1701.154
211.23	Date of Licensing or Certification	1701.152
211.25	Date of Appointment	1701.152
211.27	Reporting Responsibilities of Individuals	1701.153
211.29	Responsibilities of Agency Chief Administrators	1701.303
211.31	Memorandum of Understanding on Continuity of Care	1701.404
211.33	Law Enforcement Achievement Awards	1701.401
215.1	Licensing of Training Providers	1701.251
215.3	Academy Licensing	1701.251
215.5	Contractual Training	1701.251
215.6	Academic Alternative Licensing	1701.251
215.7	Training Provider Advisory Boards	1701.252
215.9	Training Coordinator	1701.251
215.11	Training Provider Evaluations	1701.254
215.13	Risk Assessment	1701.254
215.15	Enrollment Standards	1701.255
215.17	Distance Education	1701.251
217.1	Minimum Standards for Initial Licensure	1701.151; 251; 253; 256; 306; 308; 309; 310; 311; 312; 406
217.3	Application for License and Initial Report of Appointment	1701.301; 303
217.5	Denial and Cancellation	1701.151
217.7	Reporting Appointment and Termination of a Licensee	1701.451; 452, 4521
217.8	Contesting an Employment Termination Report	1701.4525
217.9	Continuing Education Credit for Licensees	1701.352; 354
217.11	Legislatively Required Continuing Education for Licensees	1701.253; 352; 353; 354; 3545
217.13	Reporting Legislatively Required Continuing Education	1701.353
217.15	Waiver of Legislatively Required Continuing Education	1701.351
217.17	Active License Renewal	1701.353
217.19	Reactivation of a License	1701.316, 3161
217.21	Firearms Proficiency Requirements	1701.308; 355
219.1	Eligibility to Take State Examinations	1701.304
219.3	Examination Administration	1701.304
219.5	Examinee Requirements	1701.304
219.7	Scoring of Examinations	1701.305

## Cross-Matching Tables for Commission Rules and OC/GC Sections

Table 2: Commission Rules 221.1-229.7

Commission Rule #	Title of Commission Rule	OC [GC] Section(s)
221.1	Proficiency Certificate Requirements	1701.402
221.3	Peace Officer Proficiency	1701.402
221.5	Jailer Proficiency	1701.402; 406
221.7	Investigative Hypnosis Proficiency	1701.403
221.9	Standardized Field Sobriety Testing Proficiency (SFST)	1701.402
221.11	Mental Health Officer Proficiency	1701.404
221.13	Emergency Telecommunications Proficiency	1701.405
221.15	Crime Prevention Inspector Proficiency	1701.402
221.17	Homeowners Insurance Inspector Proficiency	1701.402
221.19	Firearms Instructor Proficiency	1701.402
221.21	Firearms Proficiency for Community Supervision Officers	1701.257
221.23	Academic Recognition Award	1701.402
221.25	Civil Process Proficiency	1701.402
221.27	Instructor Proficiency	1701.251; 402
221.29	Special Investigator Certificate	1701.402, 452
221.31	Retired Peace Officer Firearms Proficiency	1701.357
223.1	License Action and Notification	1701.501
223.3	Answer Required	1701.501; 505
223.5	Filing of Documents	1701.501; 505
223.7	Contested Cases and Hearings	1701.505
223.9	Place and Nature of Hearings	1701.505
223.11	Proposal for Decision and Exceptions or Briefs	1701.505
223.13	Voluntary Surrender of License	1701.501
223.15	Suspension of License	1701.501
223.16	Suspension of License for Constitutionally Elected Officials	1701.302; 501
223.17	Reinstatement of a License	1701.502
223.19	Revocation of License	1701.502
223.20	Revocation of License for Constitutionally Elected Officials	1701.502
223.21	Appeal	1701.506
225.1	Issuance of Contract Jailer License through a Contract Jail Facility	1701.307; 451; 452
225.3	Issuance of Peace Officer License through a Medical Corporation	1701.307; 451; 452
229.1	General Eligibility of Deceased Texas Peace Officers	[3105.003; 004]
229.3	Specific Eligibility of Deceased Texas Peace Officers	[3105.004]
229.5	Determination Standards	[3105.004]
229.7	Deaths Not Included	[3105.004]