PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) adopts new 37 Texas Administrative Code §223.20, Emergency Suspension for Imminent Threat, with non-substantive changes to the proposed text as published in the May 22, 2026 issue of the *Texas Register* (51 TexReg 3541). The rule will be republished.

The adopted new rule conforms with the addition of Texas Occupations Code §1701.5011 made by Senate Bill 1445 (88R). It permits the Commission to suspend for not more than 90 days the license of a person that constitutes an imminent threat to the public health, safety, or welfare. It only applies if a chief administrator is the person that constitutes an imminent threat or if the chief administrator is unable to fulfill their obligation to make a fitness-for-duty determination under 37 Texas Administrative Code §211.29. A non-exclusive list of possible indications of imminent threat is included in the adopted new rule. This addresses an important chief administrator scenario without otherwise diminishing local control.

The public comment period began on May 22, 2026, and ended on June 25, 2026, at the conclusion of the public meeting of the Commission. One public comment was received.

Public Comment No. 1 from the Policing Project at NYU School of Law: Commenter recommends changes to allow the Commission to order the emergency suspension of all peace officers, even when a chief administrator is able to address fitness-for-duty concerns regarding appointed peace officers. Commenter indicates that, even if able, chief administrators may fail to address fitness-for-duty concerns and officer misconduct, possibly for unethical or nefarious reasons. Commenter believes that the rule does not follow the Legislature's direction in Texas Occupations Code §1701.5011 and fails to comply with best practices.

Commenter also recommends broadening the examples of imminent threat listed because the examples narrowly focus on mental health issues. Commenter recommends adding to the list arrests and charges for felonies and certain misdemeanors or commission of "an act that would constitute a felony or misdemeanor which could serve as a basis for license revocation, irrespective of whether the officer has yet been prosecuted."

Commission Response: The Legislature's charge in Texas Occupations Code §1701.5011 to the Commission was to "adopt rules specifying the circumstances under which the commission may issue an emergency order, without a hearing, suspending a person's license for a period not to exceed 90 days after determining that the person constitutes an imminent threat to the public health, safety, or welfare." By the plain language of the statute, the Legislature has given discretion to the Commission to specify the circumstances when an emergency suspension may be issued after determining a licensee constitutes an imminent threat. Noticeably absent are any directives as proposed by Commenter.

Generally, the Commission does not have authority to investigate and discipline a peace officer for administrative misconduct. The Legislature has left this authority to the law enforcement agencies and civil service commissions. Also, Texas Occupations Code §1701.451 provides that the Commission does not have the authority to review disciplinary action taken by a law enforcement

agency against a licensee. And the chief administrator has been given the responsibility to decide when to order a fitness-for-duty examination for the agency's licensees. With this in mind, the Commission made a policy decision to not create a backdoor for the regulation of administrative misconduct and fitness-for-duty concerns at the agency level because this aligns with other provisions of Texas Occupations Code Chapter 1701. As such, the Commission is exercising the discretion given by the Legislature to determine when an emergency suspension is appropriate.

Additionally, 37 Texas Administrative Code §223.18 already provides that the Commission may suspend a licensee that has been arrested for or charged with a felony offense which would constitute an immediate peril to the public health, safety, or welfare if the licensee were to remain licensed during the pendency of the criminal proceedings.

The new rule is adopted pursuant to Texas Occupations Code §1701.151, General Powers of Commission; Rulemaking Authority, and Texas Occupations Code §1701.5011, Emergency Suspension. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701 and to establish minimum standards relating to the competence and reliability, including the education, training, physical, and mental standards, for licensing as an officer, county jailer, or telecommunicator. Texas Occupations Code §1701.5011 requires the Commission to adopt rules to specify the circumstances under which the Commission may suspend for not more than 90 days the license of a person who constitutes an imminent threat to the public health, safety, or welfare.

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

The adopted new rule has been reviewed by legal counsel and found to be a valid exercise of the Commission's legal authority.

§223.20. Emergency Suspension for Imminent Threat.
(a) Only if a chief administrator is the person who constitutes an imminent threat, or is unable to fulfill their obligation to make a determination under §211.29(g) of this title (relating to Responsibilities of Agency Chief Administrators), then the commission shall determine whether an imminent threat exists.
(b) The commission, through the executive director, may suspend the license of a person who constitutes an imminent threat to the public health, safety, or welfare if the person were to remain licensed.
(c) Indications of imminent threat include evidence that they are currently a danger to themselves or others, such as:
(1) law enforcement intervention documenting an imminent threat;
(2) voluntary admission to an inpatient mental health facility related to homicidal or suicidal ideations;
(3) commitment under Texas Health and Safety Code Chapters 573 or 574; or
(4) adjudicated as a mental defective.

(d) If the commission determines that an imminent threat exists, the commission will issue an order suspending the person's license for no more than 90 days. Not later than the 10th day after the order is issued, the commission will request a hearing with SOAH.
(e) The effective date of this section is September 1, 2026.