

## SUMMARY OF PROPOSED RULES

37 Tex. Admin. Code § 211.27. *Reporting Responsibilities of Individuals.*

This proposed amendment would remove the requirement of individuals to report to TCOLE any arrests, pending charges, and criminal dispositions.

37 Tex. Admin. Code § 211.28. *Responsibility of a Law Enforcement Agency to Report an Arrest.*

This proposed amendment would require arresting agencies to provide to TCOLE copies of offense reports and charging documents for arrested licensees.

37 Tex. Admin. Code § 211.29. *Responsibilities of Agency Chief Administrators.*

This proposed amendment would remove the requirement of appointing agencies to report to TCOLE any arrests, pending charges, and criminal dispositions of their appointed licensees. Also, agency chief administrators would have to report to TCOLE within 30 days any failed medical (L-2) or psychological (L-3) examination and any final failed fitness for duty examination or drug screen.

## RESUMEN DE LAS NORMAS PROPUESTAS

37 Tex. Admin. Code § 211.27. *Responsabilidades de los individuos en materia de informes.*

Esta enmienda propuesta eliminaría el requisito de que las personas informen a TCOLE sobre cualquier arresto, cargos pendientes y disposiciones penales.

37 Tex. Admin. Code § 211.28. *Responsabilidad de una agencia de aplicación de la ley de informar un arresto.*

Esta enmienda propuesta requeriría que las agencias encargadas de los arrestos proporcionen a TCOLE copias de los informes de delitos y los documentos de acusación de los licenciatarios arrestados.

37 Tex. Admin. Code § 211.29. *Responsabilidades de los administradores principales de agencias.*

Esta enmienda propuesta eliminaría el requisito de que las agencias designadas informen a TCOLE sobre los arrestos, los cargos pendientes y las disposiciones penales de sus licenciatarios designados. Además, los administradores principales de las agencias tendrían que informar a TCOLE dentro de los 30 días sobre cualquier examen médico (L-2) o psicológico (L-3) fallido y cualquier examen final de aptitud para el trabajo o prueba de detección de drogas fallido.

## PUBLICATION IN *TEXAS REGISTER*

The Texas Commission on Law Enforcement (Commission) proposes amended 37 Texas Administrative Code §211.27, Reporting Responsibilities of Individuals, §211.28, Responsibility of a Law Enforcement Agency to Report an Arrest, and §211.29, Responsibilities of Agency Chief Administrators. These proposed amended rules would remove the requirement of licensees and appointing law enforcement agencies to report to the Commission any arrests, pending criminal charges, or criminal dispositions. These proposed amended rules would also require law enforcement agencies to report to the Commission the failure by an applicant or licensee of a

medical examination (L-2), psychological examination (L-3), fitness for duty examination (FFDE), or drug screen, which conforms with the addition of Texas Occupations Code §1701.167 made by Senate Bill 1445 (88R).

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

Mr. Beauchamp has determined that for each year of the first five years these proposed amended rules will be in effect, there will be a positive benefit to the public by eliminating duplicative reporting requirements regarding criminal offenses and by conforming with Texas Occupations Code §1701.167 to require the reporting to the Commission of a failed examination. There will be no anticipated economic costs to persons required to comply with the proposed amendments.

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

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

Mr. Beauchamp has determined the following:

- (1) the proposed rules do not create or eliminate a government program;
- (2) implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions;
- (3) implementation of the proposed rules does not require an increase or decrease in future legislative appropriations to the agency;
- (4) the proposed rules do not require an increase or decrease in fees paid to the agency;
- (5) the proposed rules do not create a new regulation;
- (6) the proposed rules do not expand, limit, or repeal an existing regulation;
- (7) the proposed rules do not increase or decrease the number of individuals subject to the rule's applicability; and
- (8) the proposed rules do not positively or adversely affect this state's economy.

The Commission will accept comments regarding the proposed amended rules. The comment period will last 30 days following the publication of this proposal in the *Texas Register*. Comments may be submitted electronically to [public.comment@tcole.texas.gov](mailto:public.comment@tcole.texas.gov) or in writing to Mr. John P. Beauchamp, General Counsel, Texas Commission on Law Enforcement, 6330 E. Highway 290, Suite 200, Austin, Texas 78723-1035.

The amended rules are proposed pursuant to Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.153, Reports from Agencies and Schools, §1701.167, Policy Regarding Examination of a License Holder or Applicant, and §1701.306, Psychological and Physical Examination. Texas Occupations Code §1701.151 authorizes the Commission to adopt rules for the administration of Occupations Code Chapter 1701. Texas

Occupations Code §1701.153 requires the Commission to establish reporting standards and procedures for matters the Commission considers necessary for the administration of Occupations Code Chapter 1701. Texas Occupations Code §1701.167 requires the reporting to the Commission of a failed examination. Texas Occupations Code §1701.306 requires the Commission to adopt rules to establish appropriate standards and measures to be used by a law enforcement agency in reporting medical (L-2) and psychological (L-3) examinations.

The amended rules as proposed affect or implement Texas Occupations Code §1701.151, General Powers of the Commission; Rulemaking Authority, §1701.153, Reports from Agencies and Schools, §1701.167, Policy Regarding Examination of a License Holder or Applicant, and §1701.306, Psychological and Physical Examination. No other code, article, or statute is affected by this proposal.

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

*§211.27. Reporting Responsibilities of Individuals.*

(a) Within thirty days, a licensee or person meeting the requirements of a licensee shall report to the commission:

(1) any name change;

(2) a permanent mailing address other than an agency address;

(3) all subsequent address changes;

~~[(4) an arrest, charge, or indictment 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, including the name of the arresting agency, the style, court, and cause number of the charge or indictment, if any;~~

~~(5) the final disposition of the criminal action;]~~ and

~~(4)[(6)]~~ receipt of a dishonorable discharge from the armed forces of the United States.

(b) The effective date of this section is May 1, 2025~~[June 1, 2022]~~.

*§211.28. Responsibility of a Law Enforcement Agency to Report an Arrest.*

(a) When an agency receives information that it has arrested or charged a licensee~~[an individual that is required to report under §211.27 of this title]~~ for any offense above a Class C misdemeanor, or for any Class C misdemeanor involving the duties and responsibilities of office or family violence, the chief administrator or their designee must report such arrest to the commission in the format currently prescribed by the commission within 30 business days of notice of the arrest, including the:

(1) name, date of birth and PID of licensee (if available);

(2) name, address, and telephone number of the arresting agency;

(3) date and nature of the arrest;

(4) arresting agency incident, booking, or arrest number;~~[-and]~~

(5) name, address, and telephone number of the court in which such charges are filed or such arrest is filed; and

(6) copies of all related offense reports and charging documents.

(b) The effective date of this section is May 1, 2025~~[July 14, 2011]~~.

*§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 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 days of such appointment.
- (c) An agency chief administrator must comply with the appointment and retention requirements under Texas Occupations Code, Chapter 1701.
- (d) An agency chief administrator must report to the commission within 30 days, any change in the agency's name, physical location, mailing address, electronic mail address, or telephone number.
- (e) An agency chief administrator must report, in a standard format, incident-based data compiled in accordance with Texas Occupations Code §1701.164.
- (f) Line of duty deaths shall be reported to the commission in current peace officers' memorial reporting formats.
- (g) An agency chief administrator has an obligation to determine that all appointees are able to safely and effectively perform the essential job functions. An agency chief administrator may require a fit for duty review upon identifying factors that indicate an appointee may no longer be able to perform job-related functions safely and effectively. These factors should be based on objective evidence and a reasonable basis that the cause may be attributable to a medical or psychological condition or impairment.
- (h) An agency chief administrator shall notify the commission of any failed medical (L-2) or psychological (L-3) examination within 30 days on a form prescribed by the commission. An agency chief administrator shall notify the commission upon a final determination of a failed fit-for-duty examination (FFDE) or drug screen within 30 days on a form prescribed by the commission.
- (i) An agency must provide training on employment issues identified in Texas Occupations Code §1701.402 and field training.
- (j)(+) An agency must provide continuing education training required in Texas Occupations Code §1701.351 and §1701.352.
- (k)(+) 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.
- (l)(k) An agency appointing a person who does not hold a commission license must file an application for the appropriate license with the commission.
- (m)(+) An agency must notify the commission electronically following the requirements of Texas Occupations Code §1701.452, when a person under appointment with that agency resigns or is terminated.
- (n)(m) 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.
- ~~[(n) An agency shall notify the commission electronically 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.]~~
- (o) 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, date of birth, last four digits of the social security number, or PID;
  - (2) the requested change; and
  - (3) the reason for the change.
- (p) An agency chief administrator may not appoint an applicant subject to pending administrative action based on:
- (1) enrollment or licensure ineligibility; or
  - (2) statutory suspension or revocation.
- (q) The effective date of this section is May 1, 2025~~[February 1, 2016]~~.