

Proposed Rules
of the
Tennessee Peace Officer Standards and Training Commission

Presented herein are proposed rules and amendments of the Tennessee Peace Officer Standards and Training Commission submitted pursuant to the T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the POST Commission to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules, amendments, and repeals are published. Such petition to be effective must be filed in the POST Commission Office at the Tennessee Law Enforcement Training Academy, 3025 Lebanon Road, Nashville, TN 37214, and in the Department of State, Eighth Floor, Snodgrass-Tennessee Tower, 312 8th Avenue North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these proposed rules, contact: Gay Rye, 3025 Lebanon Road, Nashville, TN 37214.

Rules
of
The Tennessee Peace Officer Standards
And Training Commission

Chapter 1110-1
Definitions

Amendments

Rule 1110-1-.01 Definitions. Subparagraph (a) of paragraph (1) is amended by deleting the language “and whose primary source of income is derived from employment as a police officer”, so that as amended shall read:

- (a) Full-time Police Officer is defined as any person commissioned, sworn, appointed, and/or otherwise lawfully enjoined to uphold the laws of the State of Tennessee, and/or laws or ordinances of any municipality or political subdivision of the State of Tennessee; and who is employed by any municipality or political subdivision of the State of Tennessee and whose primary responsibility is (whether directly or as an experienced, certified, supervisor/administrator of such persons), the prevention and detection of crime, and the apprehension of offenders; and, whose specifically assigned duties and/or job description reflect said primary responsibility for the prevention and detection of crime; or,

Rule 1110-1-.01 Definitions. Subparagraph (b) of paragraph (1) is amended by replacing the sentence “Part-time officers will work no more than twenty (20) hours per week or a total of no more than one hundred (100) hours per month” with “Part-time officers will work no more than twenty (20) hours per week or a total of no more than one hundred (100) hours per month for any agency or combination of agency” so that as amended shall read:

- (b) Part-time/Temporary/Reserve/Auxiliary Police Officer is defined as any person employed by any municipality or any political subdivision of the State of Tennessee whose primary responsibility is to support the full-time police officer in the prevention

and detection of crime, apprehension of offenders, assisting in the prosecution of the offenders for appropriate remuneration in measure with specifically assigned duties and/or job description. Part-time police officers will work no more than twenty (20) hours per week or a total of no more than one hundred (100) hours per month for any agency or combination of agency. Any police officer who works in excess of the maximum hours as specified herein will be reclassified to a full-time status and must meet all requirements for standards/training as mandated under the law and Peace Officer Standards and Training Commission rules.

Provided however, in any situation where an officer is temporarily assigned for a period of one (1) month or less, to work more than twenty (20) hours per week or a total of more than one hundred (100) hours per month, such officer shall not be reclassified to a full-time status.

Rule 1110-1-.01 Definitions. Paragraph (15) is amended by deleting the words “whether working alone or with other police officers” and by adding the sentence “Full-time certified law enforcement officers may serve as special deputies”, and by adding a sentence at the end to read “Nothing in this rule will prevent a sheriff from providing a special deputy commission to someone who is a full-time certified police officer” so that as amended the definition shall read:

(15)Special Deputy is defined within this section as any person who is assigned specific police functions as to the prevention and detection of crime and general laws of this state on a volunteer basis. Full-time certified law enforcement officers may serve as special deputies. Any police officer working on a volunteer basis shall receive no pay or benefits except for honorariums and may be utilized for an unlimited number of hours. Nothing in this rule will prevent a sheriff from providing a special deputy commission to someone who is a full-time certified police officer.

Rule 1110-1-.01 Definitions is amended by adding the proposed definition (21) “Paired with” so that as amended the definition shall read:

(21) Paired with is defined as in the presence of a field training officer or other full time certified supervisory officer.

Authority: T.C.A. §§38-8-101 and 38-8-104.

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Chapter 1110-2
Certification

Amendments

Rule 1110-2-.01 Persons Required To Be Certified. Paragraph (1) is amended by adding “and maintain” so that as amended shall read:

- (1) All persons, who are employed as full-time law enforcement officers on or after July 1, 1982,
shall comply with and maintain the pre-employment standards and meet the Basic Law Enforcement Training requirements before being certified as law enforcement officers.

Authority: T.C.A. §38-8-105.

Rule 1110-2-.03 Law Enforcement Officer Certification Requirements. Paragraph (1) is amended by adding a subparagraph (e) so that as amended shall read:

- (e) The agency must present a copy of any DD-214s, DD-215s and DD-873s along with the application for certification.

Rule 1110-2-.03 Law Enforcement Officer Certification Requirements. Subparagraph (h) of paragraph (1) is amended by changing “Have good moral character as determined by a thorough investigation conducted by the employing agency; and” to “Have good moral character as determined by a thorough investigation conducted by the employing agency and/or the POST Commission; and” so that as amended shall read:

- (h) Have good moral character as determined by a thorough investigation conducted by the employing agency and/or the POST Commission; and

Authority: T.C.A. §§38-8-104, 38-8-105, 38-8-106, 38-8-107, 38-8-111, and 38-8-111(f).

Rule 1110-2-.04 Denial Suspension, and Revocation of Certification. Subparagraph (b) of paragraph (2) is amended by changing “thirty (30)” to “fifteen (15)”, and by adding two sentences to the end so that as amended the subparagraph shall read:

- (b) Notification Required. Law enforcement agencies suspending for fifteen (15) days or longer, or discharging certified law enforcement officers for disciplinary reasons, shall inform the Commission within ten (10) days. Any change in the status of this disciplinary action should also be reported to the Commission within ten (10) days. Change of status form shall be submitted on any change in this disciplinary action.

Authority: T.C.A. §§38-8-104(b), 38-8-105, and 38-8-106.

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Chapter 1110-3
Curricula and Course of Instruction

Amendments

Rule 1110-3-.04 Certification for Specialized Police Instructors. Part 1 of subparagraph (a) of paragraph (1) is amended by changing “ten (10)” to “five (5)” so that as amended part 1 of the subparagraph shall read:

1. An applicant shall have at least five (5) years of experience as a full-time sworn law enforcement officer; or, equivalent combination of education and experience as determined by the appointing authority.

Authority: T.C.A. §38-8-104.

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Chapter 1110-4
In-Service Training Requirements

Amendments

Rule 1110-4-.03 Appointment of Training Officer is amended by deleting the words “conducting a forty (40) hour in-service training course” and by changing the words “and the Tennessee Law Enforcement Training Officer Association...” with “and/or the Tennessee Law Enforcement Training Officer Association” so that as amended the paragraph shall read:

Effective January 1, 1994, each law enforcement agency shall designate one Training Officer who meets the POST Commission General Departmental Instructor standards for certification. The General Departmental Instructor is responsible for coordinating in-service training programs, developing lesson plans, goals and objectives, and may be required to instruct in more than one subject area. All training officers, including a General Departmental Instructor, shall attend a POST Commission workshop at a time and place determined by the POST Commission and/or the Tennessee Law Enforcement Training Officer Association as part of their annual in-service training requirement for training officer.

Authority: T.C.A. §§38-8-104 and 38-8-111.

Paragraph (1) of rule 1110-4-.09 Approval of Specialized Schools is amended by adding a sentence to the end of the paragraph so that as amended shall read:

- (1) If an officer attends a specialized school appropriate to his/her rank and responsibility, the eligibility of the school must be approved by the Commission. Only schools of a law enforcement related nature will be considered for in-service credit toward meeting the forty (40) hour training requirement. A curriculum of each school and proof of successful completion by the individual attendee is required. The specialized substitution form along with a copy of the Certificate, a copy of the schedule and, if no test is given, a critique from the Attending Officer to his or her supervisor must be submitted to POST two (2) weeks after the completion of the school.

Paragraph (4) of rule 1110-4-.09 Approval of Specialized Schools is amended by deleting the paragraph and adding “Any officer moving to a specialized assignment involving the use of a specialized emergency conveyance shall receive sufficient training to meet the job requirements. Specialized emergency conveyance includes, but is not limited to, motorcycle, bicycle, horse” so that as amended shall read:

- (4) Any officer moving to a specialized assignment involving the use of a specialized emergency conveyance shall receive sufficient training to meet the job requirements.

Specialized emergency conveyance includes, but is not limited to, motorcycle, bicycle, horse.

Authority: T.C.A. §§38-8-107 and 38-8-111.

Rule 1110-4-.11 Approval of Law Enforcement Courses Conducted By Colleges and Universities for In-Service Credit is amended by adding paragraph (3) so that as amended shall read:

- (3) All on-line classes must be pre-approved by the POST Commission on a case by case basis.

Authority: T.C.A §38-8-104.

Rule 1110-4-.12 Successful Completion of In-Service Training for Salary Supplement Payment is amended by deleting the words “and 75% on the defensive driving qualification” and by replacing the words “Any officer who fails the test, firearms, or driving qualification must...” to “Any officer who fails the test and firearms qualification must...” so that as amended the rule shall read:

1110-4-.12 Successful Completion of In-Service Training for Salary Supplement Payment. Failure of an individual certified officer to successfully complete the in-service training requirement will result in the officer’s loss of eligibility for the pay supplement in §38-8-111. Failure of this individual officer to successfully complete another in-service training session during the next calendar year will result in loss of certification.

The officer must obtain a passing grade of 75% on the test and 75% on the firearms qualification. The in-service training session is not complete until the officer has taken the test and qualified with his firearm. Any officer who fails the test and firearms qualification must make up the failing score during the calendar year in order to keep their certification.

Authority: T.C.A. §38-8-107

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Chapter 1110-5
Forms and Documents

Amendments

Rule 1110-5-.01 Forms Required for Peace Officer Certification. Paragraph (2) is amended by deleting the first two sentences and replacing it with "This form shall be submitted to the Commission Office immediately upon an officer's separation or immediately upon a status change that will exceed thirty (30) days" so that as amended shall read:

- (2) POST – 2 Change of Status. This form shall be submitted to the Commission Office immediately upon an officer's separation or immediately upon a status change that will exceed thirty (30) days. Such changes shall include the following:

Authority: T.C.A. §§38-8-106, 38-8-107, 38-8-108, and 38-8-111.

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Chapter 1110-7
Basic Training Academy Minimum Standards

Amendments

Rule 1110-7-.01 Minimum Curricula Requirements. Part 2 of subparagraph (b) of paragraph (1) is amended by changing “20 hours” to “10 hours” so that as amended shall read:

2. Emergency Medical Training – 10 hours.

Part 3 of subparagraph (b) of paragraph (1) of rule 1110-7-.01 Minimum Curricula Requirements is amended by changing “100 hours” to “75 hours” so that as amended shall read:

3. Patrol Procedures – 75 hours.

Part 8 of subparagraph (b) of paragraph (1) of rule 1110-7-.01 Minimum Curricula Requirements is amended by changing “18 hours” to “10 hours” so that as amended shall read:

8. Written Communications – 10 hours.

Part 9 of subparagraph (b) of paragraph (1) of rule 1110-7-.01 Minimum Curricula Requirements is amended by deleting “Criminology.” so that as amended shall read:

9. Human Relations – 30 hours.
 - (i) Cultural diversity, ethnic and racial.
 - (ii) Psychology of human behavior.
 - (iii) Basic street gang culture.
 - (iv) Sexual harassment.
 - (v) Domestic terrorism.

Authority: T.C.A. §38-8-104.

Subparagraph (b) of Paragraph (1) of rule 1110-7-.03 Buildings and Facilities is amended by changing “fifty (50)” with “seventy-five (75)” so that as amended the subparagraph shall read:

- (b) Class size shall be limited to a maximum of seventy-five (75) students. However, twenty (20) percent of the total class hours in the Basic School can be taught in a seminar setting; therefore a greater number than seventy-five (75) students may be allowed. No class other than the lecture-type setting can have more than seventy-five (75) students in any one classroom.

Authority: T.C.A. §§38-8-104 and 68-18-101 et seq.

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Chapter 1110-8
Part-Time/Temporary/Auxiliary Law Enforcement Officers

Amendments

Rule 1110-8-.02 Preemployment Requirements is amended by deleting the language in subparagraphs (a) through (h) and adding subparagraph (a) through (i) so that as amended the paragraph shall read:

Rule 1110-8-.02 Preemployment Requirements.

- (1) After January 1, 1989, any person employed/utilized as part-time/temporary/reserve/auxiliary law enforcement officer or as a special deputy shall:
- (a) Be at least eighteen (18) years of age;
 - (b) Be a citizen of the United States;
 - (c) Be a high school graduate or possess equivalence. No waivers will be granted for minimum education requirements;
 - (d) Not have been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances relating to force, violence, theft, dishonesty, gambling, liquor or controlled substances;
 - 1. The commission may consider a waiver from pre-employment requirements for a person who has been convicted of, or entered a plea of nolo contendere to any violation of any federal or state laws or city ordinances (excluding felony charges) relating to force, violence, theft, dishonesty, gambling, liquor (including driving while intoxicated), or controlled substances when the offense was classed as a misdemeanor.
 - 2. No waiver shall be granted while officer is under the jurisdiction of the court or considered on probation, whether supervised or unsupervised, and in the case of "driving while intoxicated" the officer shall have met all the requirements of the Tennessee Department of Safety and have been restored his/her permanent driving privileges under the laws of the State of Tennessee.
 - 3. A person who has had misdemeanor charges expunged may be considered for certification. It is the responsibility of the officer and employing agency to present information and court documents relating to expungement to the Commission.

4. No waiver will be granted for felony convictions or a narcotics violation that could result in a felony charge.
 5. The agency must present a written request for waiver for these charges and provide a copy of the final court disposition of the case.
- (e) Not have been released or discharged under any other than honorable discharge from any of the armed forces of the United States;
 - (f) Have his fingerprints on file with the Tennessee Bureau of Investigation;
 - (g) Have passed a physical examination by a licensed physician;
 - (h) Have good moral character as determined by a thorough investigation conducted by the employing agency; and
 - (i) Have been certified by a Tennessee Licensed Health Care Provider qualified in the psychiatric or psychological fields as being free from any disorder, as set forth in the current edition of the DSM, that would, in the professional judgment of the examiner, impair the subject's ability to perform any essential function of the job.
1. No waiver will be granted for mental disorders.

Rule 1110-8-.03 Training Requirements is amended by changing "forty (40) hours" to "eighty (80) hours and by adding language at the end so that as amended the paragraph shall read:

1110-8-.03 Training Requirements. After January 1, 1989, any person newly employed/utilized as a part-time/temporary/reserve/auxiliary law enforcement officer or special deputy shall receive eighty (80) hours of training in whatever duties they are required to perform by the employing agency. This training shall be accomplished during the first calendar year of employment. During this initial period, prior to receiving eighty (80) hours of training, the part-time/temporary/reserve/auxiliary law enforcement officer must be paired with a field training officer or other certified officer. Any part-time/temporary/reserve/auxiliary law enforcement officer who is hired within five years of having served as a full-time, certified law enforcement officer will continue to be exempt from the requirement that he/she be paired with a full-time, certified officer as long as he/she completes in-service training each year and has no break in service.

Authority: T.C.A. §38-8-104.

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Chapter 1110-9
Criteria for Waivers

Amendments

Rule 1110-9-.01 Submission of Waiver Request is amended by adding a sentence to the end "The requesting department shall be represented at the hearing by its designee" so that as amended the rule shall read:

1110-9-.01 Submission of Waiver Request. Request for waiver (except for those preemployment requirements) must be submitted by the agency currently employing the person requiring a waiver. Request for waiver of preemployment requirements must be submitted by the agency having an interest in hiring a person requiring such waiver prior to that persons employment. Request for waiver filed/submitted by an individual will not be accepted by the Commission. The requesting department shall be represented at the hearing by its designee.

Authority: T.C.A. §§38-8-104 and 38-8-106.

Rule 1110-9-.04 Waiver of Preemployment Requirements. Subpart (ii) of Part 2 of subparagraph (a) of paragraph (1) is amended by deleting "Undesirable Discharge" and replacing with "Other Than Honorable Discharge" and, by deleting subpart (iv), and amending subpart (ii) and (iii) so that as amended shall read:

2. Waivers will not be granted from preemployment requirements for the following separation from military service:
 - (i) Dishonorable Discharge
 - (ii) Bad Conduct Discharge
 - (iii) Other Than Honorable Discharge

Authority: T.C.A. §§38-8-104, 38-8-105, and 38-8-106.

Legal Contact and/or party who will approve final copy for publication:

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Contact for disk acquisition:

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The proposed rules set out herein were properly filed in the Department of State on the ___ day of _____, 2006, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the ___ day of _____, 2006.

Riley C. Darnell
Secretary of State

By: _____

**Peace Officer Standards and Training Commission
Proposed Rule Revisions – 2006**

Signatures of the agency officers directly responsible for proposing these rules:

Penny Fitzgerald, Chairman

Brian Grisham, Executive Secretary

I certify that this is an accurate and complete copy of proposed rules lawfully promulgated and adopted by the Peace Officer Standards and Training Commission on the _____ day of _____, 2006.

The Secretary of State is hereby instructed that, in the absence of a petition for rule making hearing being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of thirty (30) days after the publication of the issue of the Tennessee Administrative Register in which these proposed rules are published.

Brian Grisham, Executive Secretary

Subscribed and sworn to before me this the _____ day of _____, 2006.

Notary Public

My commission expires on the _____ day of _____, _____.

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4.

Paul G. Summers
Attorney General and Reporter

Riley C. Darnell
Secretary of State

By: _____