



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
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STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officers Standards and Training ("Commission") will be holding a Public Comment Hearing at 2:00 p.m., on November 4, 2019, at the South Point Hotel and Spa, NAPA Rooms C/D at 9777 S. Las Vegas Blvd. Las Vegas, Nv 89183. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

NRS Chapter 289 authorizes the Commission to adopt regulations setting the minimum standards for the certification, decertification, training and selection of peace officers. See NRS 289.510. The existing regulations authorize the Commission to suspend, refuse or revoke the certificate of a peace officer, if among other circumstances, the peace officer: (1) is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to a felony or gross misdemeanor; or (2) is convicted of a misdemeanor. If the peace officer is convicted of a misdemeanor and the employing agency recommends the suspension or revocation, existing regulations authorize the Commission to revoke or suspend the certificate of the peace officer. (NAC 289.290).

This regulation authorizes the Commission to suspend or revoke the certificate of the peace officer without a recommendation from the employing agency if the peace officer is convicted of a misdemeanor crime of domestic violence, as defined pursuant to federal law.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2019 and clicking the link: <http://www.leg.state.nv.us/Register/2019Register/R006-19P.pdf>.

The proposed regulation text may be obtained by contacting Scott Johnston at johnston@post.state.nv.us Or by telephone at 775-687-3335.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None anticipated.

(2) Beneficial effects: The regulation will provide for the revocation of a peace officer's certification for a conviction a Misdemeanor Crime of Domestic Violence as defined by 18 U.S.C. §921(a)(33) without the requirement that the employing agency recommend revocation.

(b) Both immediate and long-term effects:

The immediate effects: The regulation will allow the Commission to suspend or revoke the Basic Certificate for a misdemeanor crime of domestic violence conviction without first obtaining a request from the employing agency.

The long term effects: The regulation will allow the Commission to suspend or revoke the Basic Certificate for a misdemeanor crime of domestic violence conviction without first obtaining a request from the employing agency.

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with decertification, suspension or revocation of the Basic Certificate of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The Commission does not project any extra costs for enforcement of the proposed regulations.

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law. However, federal law does clearly set forth the criteria for domestic violence and this regulation amendment will allow the Commission to take action on misdemeanor domestic violence without a request from the employing agency.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

This regulation is not a temporary regulation; it is a permanent regulation.

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on August 12, 2019.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted, amended or repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and regulations to be adopted, amended or repealed will be available at the Commission on POST Administrative Offices, 5587 Wai Pai Shone Avenue, Carson City, 89701, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us>, the POST web site at <http://post.nv.gov> and at <https://notice.nv.gov> .

Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The Notice of Hearing has been sent to all criminal justice agencies on the Commission on POST mailing list and posted at the following locations:

CARSON CITY

Blasdel Building, 209 East Musser Street
Nevada State Library, 100 Stewart Street

LAS VEGAS

Grant Sawyer State Building, 555 Washington Avenue

Capitol Building, 101 N. Carson Street
Commission on POST, 5587 Wa Pai

ELY

White Pine County Sheriff's Office, 1785 Great Basin Blvd.

LIBRARIES (MAIN BRANCHES)

<p>Carson City Library 900 N. Roop St Carson City, Nevada 89702</p>	<p>Churchill County Library 553 S. Maine Street Fallon, Nevada 89406-3387</p>
<p>Clark County Library 1401 E. Flamingo Rd. Las Vegas, Nevada 89119-5265</p>	<p>Douglas County Public Library 1625 Library Ln. PO Box 337 Minden, Nevada 89423-4420</p>
<p>Elko County Library 720 Court St. Elko, Nevada 89801-3331</p>	<p>Esmeralda County Library Goldfield Valley Library Corner of Crook & 4th Street Post Office Box 430 Gold Field, Nevada 89013-430</p>
<p>Eureka County Branch Library 210 South Monroe Eureka, NV 89316</p>	<p>Humboldt County Library 85 E. 5th Street Winnemucca, Nevada 89445-3095</p>
<p>Lander Co Battle Mountain Branch Library 625 S. Broad St Post Office Box 141 Battle Mountain, Nevada 89820-1920</p>	<p>Lincoln County Library 63 Main Street PO Box 330 Pioche, Nevada 89043</p>
<p>Lyon County Library System 20 Nevin Way Yerington, Nevada 89447-2399</p>	<p>Mineral County Library 110 1st St PO Box 1390 Hawthorne, Nevada 89415-1390</p>
<p>Tonopah Public Library 167 S. Central Street Post Office Box 449 Tonopah, Nevada 89049-0449</p>	<p>Pershing County Library 1125 Central Avenue PO Box 781 Lovelock, Nevada 89419-0781</p>
<p>Storey County Library 175 E. Carson Street PO Box 999 Virginia City, Nevada 89440-0999</p>	<p>Washoe County Downtown Reno Library 301 South Center Street Reno, Nevada 89501-2102</p>
<p>White Pine County Library 950 Campton Street Ely, Nevada 89301-1965</p>	

NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on POST, in writing, at 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701, or call Kathy Floyd at (775) 687-7678, Extension 3320, no later than five working days prior to the meeting.

**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS
STANDARDS AND TRAINING COMMISSION**

LCB File No. R006-19

June 26, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §1, NRS 289.510.

A REGULATION relating to peace officers; revising provisions governing the suspension, refusal or revocation of a certificate of a peace officer; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification and training of peace officers. (NRS 289.510) Existing regulations authorize the Commission to suspend, refuse or revoke the certificate of a peace officer, if, among other circumstances, the peace officer: (1) is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to a felony or gross misdemeanor; or (2) is convicted of a misdemeanor. If the peace officer is convicted of a misdemeanor and the employing agency recommends the suspension or revocation, existing regulations authorize the Commission to revoke or suspend the certificate of the peace officer. (NAC 289.290) This regulation authorizes the Commission to suspend or revoke the certificate of the peace officer without a recommendation from the employing agency if the peace officer is convicted of a misdemeanor crime of domestic violence, as defined pursuant to federal law.

Section 1. NAC 289.290 is hereby amended to read as follows:

289.290 1. Each of the following constitutes cause for the Commission to revoke, refuse or suspend the certificate of a peace officer:

- (a) Willful falsification of any information provided to obtain the certificate.

(b) A permanent or chronic physical or mental disability affecting the officer's ability to perform his or her full range of duties.

(c) Chronic drinking or drunkenness on duty.

(d) Addiction to or the unlawful use or possession of narcotics or other drugs.

(e) Conviction of, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to, a gross misdemeanor. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed.

(f) Failure to comply with the standards established in this chapter.

(g) Conviction of, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to, a felony. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed. Upon conviction or entry of a plea of guilty, guilty but mentally ill or nolo contendere, the certificate will be revoked.

(h) ~~{Conviction}~~ *Except as otherwise provided in paragraph (i), conviction of a misdemeanor. If the employing agency recommends suspension or revocation following the conviction of the employee for a misdemeanor, suspension or revocation may be imposed. In determining whether to suspend or revoke the certificate, the Commission will consider the type of conviction and other information provided by the agency indicating unprofessional conduct or similar undesirable activity by the officer that resulted in disciplinary action.*

(i) Conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33). Following the conviction of the employee for such a misdemeanor, suspension or revocation may be imposed regardless of whether the employing agency recommends suspension or revocation.

2. Denial, suspension or revocation procedures will not be considered by the Commission in cases where the employment of an officer is terminated for violations of the policies, general orders or similar guidelines of operation of the employing agency which do not constitute any of the causes for denial, suspension or revocation specified in subsection 1.

3. The employing agency shall notify the Commission any time that it becomes aware that one of its officers has been charged with a crime that could result in denial, suspension or revocation procedures. Upon receipt of information alleging any of the causes enumerated in subsection 1, the Commission will determine whether to pursue revocation or suspension of the certificate of the officer.

4. The Commission will notify the officer by certified mail at the officer's last known address of any pending revocation or suspension action and of the nature of the charges and the officer's right to appear and answer the charges. The officer shall, within 15 days after the date on the certified mail receipt, respond in writing, notifying the Commission of his or her intended action with reference to the charges.

5. If the officer fails to notify the Commission within the specified time of his or her intention to appear in answer to the pending action, the Commission will:

(a) Consider the case on its own merits, using the statement from the head of the employing agency or the substantiated information derived from any independent investigation it deems necessary;

(b) Take no action pending the outcome of possible criminal action which may be filed against the officer; and

(c) Take no action pending the outcome of an appeal.

⇒ The Commission's decision will be determined by a majority vote of the members of the Commission present.

6. When an officer notifies the Commission of his or her intention to appear and answer the charges pending against him or her, the Commission will elect to sit as a whole at a hearing or designate an independent hearing officer to hear the matter and make recommendations in writing to the Commission. The Commission will review the recommendations of any such hearing officer and arrive at a decision by majority vote of the members present.

7. The Commission will notify the officer of its decision within 15 days after the hearing.

8. An applicant for a certificate who has not been previously certified, but who would be subject to revocation for any cause set out in subsection 1, will not be granted a certificate.

9. If, upon receiving a written allegation that a peace officer is in violation of any provision of subsection 1 and that the facts and circumstances indicate that suspension rather than revocation would be in the best interests of the agency and law enforcement in general, the Commission will suspend the officer's certificate.

10. The Commission will provide each peace officer whose certificate is suspended with written notice of the suspension by certified registered mail. The suspension becomes effective 24 hours after receipt of the certified notice. The notice will contain a statement advising the officer of the right to a hearing.

11. Suspension of a certificate is not a bar to future revocation of the certificate and any prior suspensions may be considered as a factor if revocation is being considered by the Commission.

12. Five years after the revocation of a certificate, an officer may submit a written request to the Commission to allow him or her to reinstate his or her certificate. The Commission will schedule a hearing to consider whether to reinstate the officer's certificate. The Commission will notify the agency that requested the revocation of the date and time of the hearing. After the hearing, the Commission will determine whether to reinstate the certificate. If the certificate is reinstated, the Commission may establish a probationary period during which any misconduct by the officer would result in revocation.