



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
(775) 687-7678 FAX (775) 687-4911

JOE LOMBARDO
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption, Amendment and Repeal Of Regulations of the Commission on Peace Officer Standards and Training

PUBLIC HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Hearing at **8:00 a.m. on Thursday, October 17, 2024, at the Southpoint Hotel/Casino, 9777 S. Las Vegas Blvd., Napa Room A, Las Vegas, Nevada, 89183**. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and/or 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 amendments.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

Existing regulation (NAC 289.290(i)) authorizes the Commission to revoke, refuse or suspend the certificate of a peace officer who is convicted of a misdemeanor crime of domestic violence, as defined by federal law. This regulation additionally provides that the authority of the Commission to suspend or revoke the certificate of such an officer applies, regardless of whether the employing agency recommends the suspension or revocation.

This regulation change (NAC 289.290(j)) adds language that will allow the Commission to revoke, refuse or suspend the certificate of a peace officer if the crime in which the officer was *arrested* for was a misdemeanor crime of domestic violence, regardless of what the conviction is. This will allow the commission to revoke, refuse or suspend an officer that has pled guilty to, or found guilty of, a lesser misdemeanor charge, regardless of whether the agency recommends suspension or revocation.

In addition, existing regulations require the Commission to notify a peace officer by certified mail of any pending revocation or suspension action concerning the certificate of the officer. (NAC 289.290(4)) This regulation change authorizes the Commission to provide such notice by personal service or certified mail. This will allow the Commission to have notices served in person by appropriate personnel, ensuring the proper notices are given for revocations and suspension hearings.

- 2. For a proposed 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 permanent 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 2024 and clicking the link: <https://www.leg.state.nv.us/Register/2024Register/R098-24P.pdf>, by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

- 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

No adverse or beneficial economic effect due to this language change.

(b) Both immediate and long-term effects:

No immediate or long-term economic effects due to this language change.

- 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 proposed regulation amends Nevada Administrative Code Chapter 289, dealing with the training and certification 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.**

None

- 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.

- 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.

N/A

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 September 30, 2024.** 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.

This Notice of Intent to Act Upon Regulations and the proposed regulation will be on file at the State Library, Archives and Public Records Administrator, 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 Wa Pai Shone Avenue, Carson City, 89701 for inspection and copying by members of the public during business hours.

This notice and the text of the proposed regulation 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 the State of Nevada Department of Administration website 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 Intent to Act Upon Regulations and the proposed regulation have been sent to all criminal justice agencies on the Commission on POST Listserv list and posted at the following locations:

**Commission on POST Administrative
Office Carson City, NV 89701
State Library, Archives and Public Records
100 Stewart Street, Carson City**
<http://post.nv.gov>
<http://notice.nv.gov>
<http://leg.state.nv.us>

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 Wa Pai Shone Avenue, Carson City, Nevada 89701, or call Chief Kathy Floyd at (775) 687-7678, Extension 3335, 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. R098-24

May 31, 2024

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 revocation, refusal or suspension 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 decertification, recruitment, selection and training of peace officers. (NRS 289.510) Existing regulations authorize the Commission to revoke, refuse or suspend the certificate of a peace officer who is convicted of a misdemeanor crime of domestic violence, as defined by federal law. Existing regulations additionally provide that the authority of the Commission to suspend or revoke the certificate of such an officer applies, regardless of whether the employing agency recommends the suspension or revocation. (NAC 289.290) This regulation additionally authorizes the Commission to revoke, refuse or suspend the certificate of a peace officer who is convicted of or pleads guilty, guilty but mentally ill or nolo contendere to, any misdemeanor, if the crime for which the officer was arrested was a misdemeanor crime of domestic violence, as defined by federal law. This regulation additionally provides that the authority of the Commission to suspend or revoke the certificate of such an officer applies, regardless of whether the employing agency recommends the suspension or revocation.

Existing regulations require the Commission to notify a peace officer by certified mail of any pending revocation or suspension action concerning the certificate of the officer. (NAC 289.290) This regulation additionally authorizes the Commission to provide such notice by personal service.

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) Except as otherwise provided in ~~paragraph (i),~~ *paragraphs (i) and (j)*, 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.

(j) Conviction of, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to, any misdemeanor, if the crime for which the officer was arrested was a misdemeanor crime of domestic violence, regardless of whether the crime to which the officer plead or was found guilty is a misdemeanor crime of domestic violence. Following the conviction of the employee or entry of the plea by 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 *personal service or 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.

13. As used in this section, "misdemeanor crime of domestic violence" has the meaning ascribed to it in 18 U.S.C. § 921(a)(33).