



Criminal Justice Standards and Training Commission

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CRIMINAL JUSTICE STANDARDS AND TRAINING COMMISSION TECHNICAL MEMORANDUM 2020-12

DATE: September 30, 2020

TO: Criminal Justice Agency Administrators
Criminal Justice Training Center Directors

FROM: Director Dean Register *DR*
Criminal Justice Professionalism Division

SUBJECT: Expiration of the Temporary Suspension of Certain Florida Statutes and Florida Administrative Code Rules

On March 9, 2020, Governor DeSantis issued Executive Order No. 20-52, which authorized each state agency to suspend any regulatory statute, order, or rules of that agency, wherein strict compliance with the provisions of any such statute, order, or rule would prevent, hinder, or delay necessary action in coping with the COVID-19 emergency response. FDLE Office of General Counsel and Commission staff identified rules and statutes that may hinder operations within criminal justice agencies and training centers. After approval from Governor DeSantis, FDLE Commissioner Richard Swearingen issued FDLE Executive Order No. 20-01 on April 30, 2020 suspending the identified rules and statutes.

Unless indicated otherwise, the suspension of the following rules and statutes **expires** on October 1, 2020:

- a) Rule 11B-18.008(3)(f), F.A.C. – This rule required schools to start classes before the end of the fiscal year in which officer training monies were expended. The suspension of this rule allowed schools to delay the start date of the classes for which trust fund monies were expended during FY 2019/2020 until FY 2020/2021. Schools must start the classes prior to the end of FY 2020/2021 or pay the money back to the trust fund. **This suspension expires on October 1, 2020; however, schools will have the remainder of FY 2020/2021 to start classes for which trust fund monies were expended during FY 2019/2020.**
- b) Rule 11B-20.0017(7), F.A.C. – Lapse of Instructor Certifications – Instructors whose certifications lapsed on March 31, 2020, may not have been able to meet requirements to maintain certification. Suspension of this rule allowed instructors who failed to meet the maintenance requirements by the March 31, 2020 deadline, to have until October 1, 2020, to complete the requirements. **This suspension expires on October 1, 2020.**

- c) Section 943.13(5)-(8) and (11), F.S., and Rule 11B-27.002(1)(c), (d), (f), and (g), F.A.C. – Agencies were anticipated to have difficulty complying with some of the minimum standards outlined in the associated statute and rule, such as having processed fingerprints on file, passing a physical examination, completing a full background investigation, and becoming current with continuing education requirements. This suspension covered those individuals who were covered under the provisions of Executive Order No. 20-88 and those new hires or individuals who might not have retired. This suspension allows up to 120 days from the date of hire for the agency to comply. **This suspension expires on October 1, 2020; however, agencies will have up to 120 days from the date of hire to complete the documentation of all the requirements for officers hired on or before October 1, 2020. Any officer hired after October 1, 2020 must meet the requirements of s. 943.13, F.S., prior to employment.**
- d) Rule 11B-27.002(2) and (2)(a), F.A.C. – Due to staffing issues, agencies may not have been able to register and apply for officer certification within 30 days of employment or eligibility. **This suspension expires on October 1, 2020.**
- e) Rule 11B-27.002(4) and 11B-35.002(6), F.A.C. – Applicants may not have been able to become employed and certified within four years of the start date of a basic recruit training program (BRTP). **This suspension expires on October 1, 2020.**
- f) Rule 11B-27.00212, F.A.C. – Officers may not have been able to complete the continuing education requirements for certified officers (due by 6/30/2020) and firearms qualifications (due by 6/30/2020). **This suspension expires on October 1, 2020. The certification for any officer who was due to complete mandatory retraining or the firearms qualification and failed to do so will be inactive after October 1, 2020.**
- g) Section 943.131(1), F.S., and Rule 11B-27.00213, F.A.C. – Agencies were anticipated to have difficulty meeting the established time frames to comply with TEA requirements. The suspension of this statute and rule allowed agencies to keep an officer employed on a TEA even if the time frames outlined were unable to be met. It allowed an agency to hire someone on a TEA even if the person had a TEA in the same discipline within the past four years. On September 29, 2020, Commissioner Richard Swearingen issued FDLE Emergency Order 20-02 (attached) extending two provisions of this suspension. **The suspensions that allow a person to remain employed on a TEA if he or she does not begin basic recruit training within 180 days of the date of employment and that allow a person who was previously employed on a TEA but has not been separated for a period of four years to be employed on another TEA have been extended until December 31, 2020, or the expiration of Executive Order No. 20-52 and all extensions thereof, whichever occurs first. All other provisions of the above-listed statute and rule that were previously suspended, expire on October 1, 2020.**
- h) Sections 943.131(2) and 943.1395(3), F.S., and Rule 11B-35.009(4), F.A.C. – Florida officers with a four-year break in service may not have been able to get into an Equivalency of Training program. **This suspension expires on October 1, 2020.**

- i) Section 943.1395(6)(a), F.S. – Required CJSTC staff to present a case to a probable cause panel within six months of a completed investigation. **This suspension expires on October 1, 2020.**
- j) Section 943.14(7), F.S. – Required fingerprints for basic recruit students as part of a criminal history background check. **This suspension expires on October 1, 2020.**
- k) Rule 11B-35.001(3)(b), F.A.C. – Defensive Tactics Instructor Update – CJSTC-certified defensive tactics instructors who instruct defensive tactics courses on or after July 1, 2020, must have completed the Defensive Tactics Instructor Course, effective May 2, 2019, as a part of their initial defensive tactics instructor certification or have completed the Defensive Tactics Instructor Update Course effective April 1, 2018. The suspension of this rule allowed defensive tactics instructors who have not completed the Defensive Tactics Instructor Update Course to remain certified until October 1, 2020. It further allowed schools to continue teaching the existing defensive tactics course in BRTP starting between July 1, 2020, and October 1, 2020. **The Commission approved a request to waive this rule at its August 13, 2020 quarterly meeting. As a result, this suspension has been extended until February 5, 2021.** If a school teaches the updated defensive tactics BRTP course, the instructors will have to have completed the Defensive Tactics Instructor Update Course. A new comments field was added to the “Add Course” table in ATMS. Schools choosing to teach the existing defensive tactics course will note this in the comments field.

Please direct questions to Terry Baker at terrybaker@fdle.state.fl.us or (850) 410-8688.

Attachment

cc: Criminal Justice Standards and Training Commission



Florida Department of
Law Enforcement

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Commissioner

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Ron DeSantis, *Governor*
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Jimmy Patronis, *Chief Financial Officer*
Nikki Fried, *Commissioner of Agriculture*

FDLE Emergency Order: 20-02

WHEREAS, on March 9, 2020, Governor Ron DeSantis signed Executive Order 20-52 providing in Section 4(B) that “[e]ach State agency may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of that agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency”; and

WHEREAS, on April 30, 2020, pursuant to the authority granted by Section 4(B) of Executive Order 20-52, I signed FDLE Emergency Order: 20-01 suspending certain regulatory statutes and Department administrative rules, including Section 943.131(1), FS and Rule 11B-27.00213, F.A.C., until October 1, 2020; and

WHEREAS, on September 4, 2020, Governor Ron DeSantis signed Executive Order 20-213 providing that the state of emergency declared in Executive Order 20-52, as extended by Executive Orders 20-114 and 20-166 is now extended for 60 days following the issuance of that order; and

WHEREAS, I find that a key resource in coping with the current state of emergency is our law enforcement and public safety personnel throughout the State of Florida. I further find that continued action is needed to ensure that there are adequate law enforcement and public safety personnel to provide mission critical support to protect all Floridians; and

WHEREAS, during this time the Florida Department of Corrections is still faced with staff shortages that have been exacerbated by the effects of COVID-19 on the ability to recruit and train new officers; and

WHEREAS, strict compliance with the provisions contained in Florida Statute and Department administrative rule on the utilization of Temporary Employment Authorizations would prevent, hinder, or delay necessary action in coping with the emergency.

Therefore, pursuant to the authority granted by Section 4(B) of Executive Order 20-52, as extended, I authorize the continued suspension of the following until December 31, 2020, or the expiration, or termination of Executive Order 20-52 and all extensions thereof, whichever occurs first.

a) Section 943.131(1)(a), FS, that provides the following:

“A person temporarily employed or appointed as an officer under this subsection must begin basic recruit training within 180 consecutive days after employment.”

b) Rule 11B-27.00213, paragraph (1)(a)1., F.A.C. that provides the following:

“Begin a Commission-approved Basic Recruit Training Program within 180 days of being placed on a TEA[.]”

c) Rule 11B-27.00213, paragraph (3), F.A.C. that provides the following:

“The Commission shall separate an officer from employment, through the Commission’s ATMS, if the officer’s TEA exceeds 180 days without enrollment in a Commission-approved Basic Recruit Training Program[.]”

d) Rule 11B-27.00213, paragraph (4)(b), F.A.C that provides the following:

“The individual was previously hired on a TEA and has separated from the employing agency or discontinued training while still in good standing, and has had a break-in-service from the last employment for a minimum of four years.”

“[Such individual] shall enroll in a Commission-approved Basic Recruit Training Program within 180 days of employment in the first training program offered in the geographic area, or in the first assigned state training program for a state officer.”

Executed this 29th day of September, 2020.



Richard L. Swearingen
Commissioner