



Criminal Justice Standards and Training Commission

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CRIMINAL JUSTICE STANDARDS AND TRAINING COMMISSION **TECHNICAL MEMORANDUM 2020-06**

DATE: May 1, 2020

TO: Criminal Justice Agency Administrators
Criminal Justice Training Center Directors

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

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

On March 9, 2020, Governor DeSantis issued Executive Order Number 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. On March 30, 2020 Governor DeSantis issued Executive Order Number 20-88, which allows for the re-employment of essential former FRS personnel to assist with the COVID-19 emergency response.

FDLE Office of General Counsel and Commission staff have identified rules and statutes that might hinder operations within criminal justice agencies and training centers. On April 8, 2020, the Criminal Justice Standards and Training Commission (CJSTC) voted to suspend the identified rules and statutes. On April 30, 2020, Governor DeSantis approved the suspension of the identified rules and statutes.

Unless indicated otherwise, the following rules and statutes are suspended until October 1, 2020:

- a) Rule 11B-18.008(3)(f), F.A.C. – Schools must start classes before the end of the fiscal year in which officer training monies are expended. The concern is for OCO purchases or other expenses that have occurred and the class is canceled. Without relief, the schools would have to pay back that money. The suspension of this rule allows 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.
- b) Rule 11B-20.0017(7), F.A.C. – Lapse of Instructor Certifications – Instructors whose certifications lapsed on March 31, 2020, may have not been able to meet requirements to maintain certification. Suspension of this rule allows instructors who failed to meet the maintenance requirements by the March 31, 2020 deadline, to have until Oct. 1, 2020, to complete the requirements. Agencies or training schools who have instructors whose instructor certification lapsed on March 31, 2020, and wish to use the extended time, must contact Officer Records at (850) 410-8600 or their assigned field representative to activate the instructor's certification.

- 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 are 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 would cover those individuals who are covered under the provisions of Executive Order No. 20-88 and those new hires or individuals who might not have retired. Agencies should make every effort to comply with all these sections of rule and statute, but if they are unable to because of the difficulties caused by COVID-19, this suspension allows up to 120 days from the date of hire for the agency to comply. Agencies should only hire persons whom the agency is reasonably confident will be able to meet all of the requirements. Newly hired officers who are not yet certified, will not be certified until all the requirements are met. When an agency hires an officer and enters the employment in ATMS, the agency user will be prompted to select if the officer does or does not meet the requirements of s. 943.13, F.S.
- d) Rule 11B-27.002(2) and (2)(a), F.A.C. – Due to staffing issues, agencies may not be able to register and apply for officer certification within 30 days of employment or eligibility. The suspension of these rules allows agencies additional time to enter a newly hired officer in ATMS and apply for the officer's certification. If an agency is able, newly hired officers should still be entered in ATMS as soon as possible. Agencies should not apply for a newly hired officer's certification until all the requirements in s. 943.13, F.S., are met.
- e) Rule 11B-27.002(4) and 11B-35.002(6), F.A.C. – Applicants may not be able to become employed and certified within four years of the start date of a basic recruit training program (BRTP). The suspension of these rules allows an agency to employ a person as an officer whose start date of training is more than four years from the date of employment. Agencies wishing to employ an officer under this allowance will need to contact Officer Records at (850) 410-8600 or their assigned field representative.
- f) Rule 11B-27.00212, F.A.C. – Officers may be unable to complete the continuing education requirements for certified officers (due by 6/30/2020) and firearms qualifications (due by 6/30/2020). The suspension of this statute and rule gives officers whose certification lapses effective June 30, 2020, due to failure to complete mandatory retraining and/or firearms qualification until October 1, 2020 to complete the requirements. Agencies should continue to update officer certifications if the mandatory retraining or firearms requirements are met. ATMS will be reprogrammed to run the separations for mandatory retraining and firearms on October 1, 2020. Agency personnel will be able to update both mandatory retraining and firearms qualification dates in ATMS before October 1, 2020.
- g) Section 943.131(1), F.S., and Rule 11B-27.00213, F.A.C. – Agencies are anticipated to have difficulty meeting the established timeframes to comply with the TEA requirements. The suspension of this statute and rule allows agencies to keep an officer employed on a TEA even if the time frames outlined are unable to be met. It allows an agency to hire someone on a TEA even if the person has had a TEA in the same discipline within the past four years. Agencies wishing to employ an officer under this allowance will need to contact Officer Records at (850) 410-8600 or their assigned field representative.

- 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 be able to get into an Equivalency of Training program. This would only apply to inactive Florida officers, not out-of-state, federal officers or special operations forces members. Officers with more than an eight-year break in service would still be required to go back through the entire BRTP and pass the State Officer Certification Examination. The suspension of these statutes and rule will allow an agency to hire a previously sworn Florida officer who has a break in service between four and eight years. Agencies wishing to employ an officer under this allowance will need to contact Officer Records at (850) 410-8600 or their assigned field representative.
- i) Section 943.1395(6)(a), F.S. – Requires CJSTC staff to get a case to probable cause in six months. The suspension of this statute removes the requirement that officer disciplinary cases be presented to a Probable Cause Panel within six months of staff receiving a completed investigation from the employing agency.
- j) Section 943.14(7), F.S. – Requires fingerprints for basic recruit students as part of a criminal history background check. The suspension of this statute allows a school to accept a student into a BRTP without having completed the fingerprint background check. The school should run a criminal history via Social Security number and name. As soon as possible, the school should conduct the fingerprint background check.
- 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 will allow defensive tactics instructors who have not completed the Defensive Tactics Instructor Update Course to remain certified until October 1, 2020. It will further allow schools to continue teaching the existing defensive tactics course in BRTP starting between July 1, 2020, and October 1, 2020. 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 is being 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.

cc: Criminal Justice Standards and Training Commission