

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Public Safety and Correctional Services
(DLS Control No. 15-160)**

Overview and Legal and Fiscal Impact

These regulations replace the use of the term “derogatory information” with the new, clarified term “supplemental information” and make conforming changes in the regulations; add new subject areas for entrance-level training for police officers required by Chapter 221 of 2014; clarify the levels of substances in a urine sample that indicate a positive screen and confirmation requirements in the drug screening procedures for police officer applicants; and clarify language related to a law enforcement agency’s verification of information related to a police officer applicant’s use of drugs.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Public Safety and Correctional Services:

Police Training Commission: General Regulations:
COMAR 12.04.01.01, .05, .08, .09, .11, .15, and .16

Legal Analysis

Background

Chapter 221 of 2014 mandates that the Police Training Commission require certain entrance-level and in-service training conducted by the State and each county and municipal training school to include certain training, consistent with established law enforcement standards and federal and State constitutional provisions, including training in certain lifesaving techniques, the proper level and use of force, sensitivity to cultural and gender diversity, and individuals with physical, intellectual, developmental, and psychiatric disabilities.

Summary of Regulations

The regulations replace the term “derogatory information” with “supplemental information,” expanding and clarifying the term to include any information that indicates the police officer or applicant for certification may not have the ability to perform the duties of a police officer, may not meet a qualification for selection standards under the regulations, has

exhibited behavior reflecting lack of honesty or integrity, or has separated from employment involuntarily or “prior to issues being resolved that are related to the individual’s eligibility to continue the employment.” (COMAR 12.04.01.01) The regulations also clarify that any supplemental information is required to be forwarded by an agency head to the commission during a background investigation under COMAR 12.04.01.05 and by a hiring agency head during recertification as a police officer under COMAR 12.04.01.08. Additionally, regulations require the training director to ensure that a criminal record check includes a determination of whether there is supplemental information that conflicts with the requirements of the academy or commission. (COMAR 12.04.01.11)

The regulations require the commission to include entrance-training for police officers training regarding the proper level and use of force, sensitivity to cultural and gender diversity, and individuals with physical, intellectual, developmental, and psychiatric disabilities. (COMAR 12.04.01.09C(1))

The regulations clarify the levels of substances in a urine sample that indicate a positive screen and the confirmation requirements in drug screening procedures for police officer applicants. (COMAR 12.04.01.15C)

Finally, the regulations make a technical clarification that a law enforcement agency must verify *both* the veracity of information provided by an applicant *and* any other information provided by the applicant relating to the use of certain drugs using a truth verification device. (COMAR 12.04.01.16)

Legal Issue

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

The Department of Public Safety and Correctional Services cites § 3-208(a) of the Public Safety Article and § 2-109 of the Correctional Services Article as statutory authority for the regulations. Section 3-208(a) gives the commission the power and duty to adopt regulations necessary or appropriate to carry out the subtitle. Section 2-109, in pertinent part, authorizes the Secretary to approve, disapprove, or revise regulations proposed by a unit in the department.

The authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations, in part, implement provisions of Chapter 221 of 2014 (House Bill 294), which altered the requirements for entrance-level training programs for law enforcement officers. Any fiscal impact associated with these changes has already been assumed under the fiscal and policy note for House Bill 294, which indicated that the bill has minimal impact on State and local governments.

The regulations also repeal and replace the term “derogatory information” in application and certification requirements for law enforcement officers with the more specifically defined term of “supplemental information.” The regulations also make clarifying changes to drug screening procedures and the required verification of applicant drug use. The department advises that these changes reflect current practice and are clarifying and technical in nature; therefore, there is no impact on State or local governments. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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