

**ADOPTED REGULATION OF THE PEACE OFFICERS'
STANDARDS AND TRAINING COMMISSION**

LCB File No. R075-11

Effective May 30, 2012

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; providing for the voluntary surrender of a basic certificate under certain circumstances; providing for reapplication for certification after a voluntary surrender; requiring certain reports from the Executive Director of the Peace Officers' Standards and Training Commission; and providing other matters properly relating thereto.

Section 1. Chapter 289 of NAC is hereby amended by adding thereto a new section to read as follows:

1. A peace officer may, permanently or for a stated term, voluntarily surrender a basic certificate to the Commission:

(a) As part of a termination agreement between the peace officer and his or her employing agency;

(b) As part of a plea bargain in a criminal proceeding against the peace officer;

(c) As part of a settlement agreement between the Commission and the peace officer; or

(d) For any other reason.

2. A peace officer who wishes to voluntarily surrender his or her basic certificate must submit to the Executive Director a request for the voluntary surrender. The request must:

(a) Be in writing;

(b) State the date on which the voluntary surrender will become effective;

(c) State whether the voluntary surrender is permanent or for a stated term;

(d) If the voluntary surrender is for a stated term, include the date on which the voluntary surrender will end;

(e) Include a summary of the reason for the voluntary surrender;

(f) If the voluntary surrender is being requested as part of a termination agreement, plea bargain or settlement agreement described in paragraph (a), (b) or (c) of subsection 1, include an acknowledgment by the peace officer that the voluntary surrender shall be deemed to include the voluntary surrender of all other basic certificates held by the peace officer;

(g) Include a statement by the peace officer that he or she understands and has knowledge of the consequences of the voluntary surrender; and

(h) Be signed by the peace officer and be notarized.

3. The Executive Director shall accept or reject each request for the voluntary surrender of a basic certificate submitted pursuant to subsection 2 and shall notify the peace officer of the acceptance or rejection. If the Executive Director accepts the voluntary surrender of a basic certificate requested as part of a termination agreement, plea bargain or settlement agreement described in paragraph (a), (b) or (c) of subsection 1, the peace officer shall be deemed to have voluntarily surrendered all other basic certificates held by the peace officer, regardless of the training categories in which the basic certificates were awarded.

4. A peace officer who voluntarily surrenders a basic certificate may apply to reinstate the basic certificate:

(a) If the voluntary surrender was for a stated term, after the date specified for the end of the term of voluntary surrender or 60 months after the effective date of the voluntary surrender, whichever occurs earlier; or

(b) If the voluntary surrender was permanent, 60 months after the effective date of the voluntary surrender.

5. A peace officer who wishes to have a basic certificate reinstated must submit a written request to the Commission for authorization to apply for reinstatement of the basic certificate. The Commission will schedule a hearing to consider the request. The Commission will notify the agency that employed the peace officer at the time that the voluntary surrender became effective or the agency that employed the peace officer immediately preceding his or her voluntary surrender, whichever is applicable, of the date and time of the hearing. After the hearing, the Commission will determine whether to authorize the peace officer to apply for reinstatement of the basic certificate.

6. If a peace officer is authorized by the Commission to apply for reinstatement of a basic certificate after a voluntary surrender, the peace officer must meet the minimum standards for appointment established by NAC 289.010 to 289.380, inclusive, which are applicable at the time that the peace officer applies for reinstatement of the basic certificate. If the basic certificate is reinstated, the Commission may establish a probationary period during which any misconduct by the officer would result in the revocation of the basic certificate.

7. The Executive Director shall submit to the Commission at each meeting of the Commission a report concerning:

(a) Each voluntary surrender of a basic certificate that was accepted by the Executive Director since the last meeting of the Commission; and

(b) Each application for reinstatement of a basic certificate that was granted or denied since the last meeting of the Commission.

State of Nevada
Commission on Peace Officers' Standards and Training
Informational Statement
R075-11

03/01/2012

1. A description of how public comment was solicited, a summary of public response, and an explanation how persons may obtain a copy of the summary.

The Commission on Peace Officer' Standards and Training noticed its intent to amend its regulations through notices of two (2) public workshops, and one (1) public comment hearing. The first workshop was held on Thursday July 21, 2011, at the Prospector Hotel and Casino, Ghost Train room, 1501 East Aultman Ely, Nevada. The second public workshop was held on Thursday, September 15, 2011, at the Fallon Convention Center, 100 Campus Way Fallon, Nevada. The Public Comment Hearing was held on February 23, 2012, at the Henderson Police Department, North Command Training Facility, Room 102, 225 East Sunset Road, Henderson, Nevada, all in compliance with NRS 233B.0603.

Notice of the Public Comment hearings were sent via U.S., inter-departmental mail or faxed to all identified law enforcement agencies.

Notice for the Public Comment Hearing was posted at all Nevada county libraries, POST Administrative Offices, Carson City; Nevada State Capitol Building, Carson City; State Personnel-Blasdel Building, Carson City; Nevada State Library, Carson City; Grant Sawyer Building, Las Vegas; emailed to all Nevada criminal justice agency administrators, and posted on the Nevada POST website at www.post.state.nv.us pursuant to NRS 241.020(4).

Persons who wished to comment on the proposed action of the Commission on Peace Officers' Standards and Training were invited to appear at the scheduled workshops and public comment hearing or were invited to address their comments, data, views or arguments, in written form, to Richard P. Clark c/o POST Commission, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701.

No written comments were received by the Commission prior to the hearing.

2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation.

- (a) The number of persons attending the July 21, 2011, Workshop: 11
- (b) The number of persons testifying at the July 21, 2011, Workshop: 1
- (c) The number of persons attending the September 15, 2011, Workshop: 6
- (d) The number of persons testifying at the September 15, 2011, Workshop: 1
- (e) The number of persons attending the February 23, 2012, Public Comment Hearing: 9

- (f) The number of persons testifying at the February 23, 2012 Public Comment Hearing: 1
- (g) The number of persons submitting written comments: 0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary;

Comment was solicited as provided in section one.

Interested agencies or persons employed by law enforcement agencies had an opportunity to submit written comments or testify at the workshops and the public comment hearing. The public comment related to the permanent surrender and term surrender of a certificate and why a peace officer can request the Commission to reinstate the certificate. Persons wishing to obtain a copy of a summary of the public comments may request copies by calling (775) 687-7678 or by writing to the Commission on Peace Officers' Standards and Training, Executive Director, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulations were adopted at the POST Commission meeting on February 23, 2012 to be adopted as Permanent Regulations. The regulations were adopted without change to the Legislative Counsel Bureau version. The public comments did not suggest or recommend modifications to the Legislative Counsel Bureau language.

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

(a) Both adverse and beneficial effects;

Adverse effects:

The Commission is unaware of any adverse effects created by providing a procedure for a peace officer to voluntarily surrender their Basic Certificate.

Beneficial effects:

This regulation will give the Commission, prosecutors, and employing agencies another tool to address circumstances where a peace officer engages in conduct that is incompatible with future employment as a peace officer. As part of a plea bargain in a criminal case, as part of a settlement in an employment disciplinary action, as part of a settlement in Commission revocation action, or under other appropriate circumstances, a person can voluntarily surrender their P.O.S.T. Basic Certificate.

(b) Both immediate and long-term effects.

Same as stated above.

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

There are no anticipated costs associated with this regulation.

7. A description of any regulation of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Commission has no knowledge of any regulations imposed by other state, government or federal agencies, which overlap or duplicate this regulation.

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

The Commission is not aware of any Federal regulation that may be associated with this same activity.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The adopted regulation neither establishes nor increases any existing fee.