



**Date:** April 26, 2016  
**To:** APSC Council Members  
**From:** R.E. Griffiths, Executive Director  
**RE:** Proposed Changes to Published Corrections Regulations after Public Comment Period

Proposed Corrections Regulatory changes were accepted by the Council at their meeting on March 10, 2016. These proposed changes were published in March for public comment through April 25, 2016. Numerous constructive comments were received and have been compiled into a separate document presented to the Council. Several questions were posed by one commenter; these were answered when received and both questions and answers were published on the Public Notices web site on April 15, 2016.

On April 25, 2016, APSC received a lengthy list of comments from ASEA/AFSCME Local 52 and a second comment letter from ACOA. The comments are provided as part of the separate "Public Comments" file presented to the council: Summarizing their comments, there were two principle areas of concern: 1) Double Jeopardy, lack of due process, and violation of the collective bargaining agreement by APSC mandating the reporting of sustained disqualifying misconduct short of dismissal by the agency; and, 2) Definitions of "Moral Turpitude" and "Good Moral Character" reportedly contained within the disqualifying language of our regulations.

APSC has thoroughly reviewed ASEA/AFSCME and ACOA's comments, and have determined that most are already covered by existing regulations.

AS 44.62. *et. seq.* (ADMINISTRATIVE PROCEDURE ACT) ensures that an officer is provided due process in an APSC action.

ASEA/AFSCME Local 52 comments included references to 13 AAC 85.900(6), (7) and (10) as being examples of vague terminology including, "moral turpitude" (13 AAC 85.900(10)(C)). It is interesting to note that:

- 13 AAC 85.900(6) was repealed in 2007,
- 13 AAC 85.900(7), "good moral character" has been clearly defined and upheld in a number of Alaska OAH and court cases, and
- 13 AAC 85.900(10) was repealed in 2007.

The Council remains the decision-maker when the matter involves the determination of "good moral character:" "Good moral character" means the absence of acts or conduct that would cause a reasonable person to have substantial doubts about an individual's honesty, fairness, and respect for the rights of others and for the laws of this state and the United States; for purposes of this standard, a determination of lack of "good moral character" may be based upon a consideration of all aspects of a person's character." This regulation has been in effect for some time, has withheld

Alaska court scrutiny, has never been exercised arbitrarily or capriciously, and is *not being changed in any way by the proposed regulatory changes.*

Based upon public comments received; the counsel of the Alaska Department of Law; and, further research by APSC that included face to face meetings with DOC directors, recruiters and DOC academy directors and trainers, Staff have prepared recommended regulatory language changes and incorporated them into a document to be considered as amendments, or a substitute, for the proposed published regulations.

All recommended changes have been reviewed and approved by the Department of Law.

The following is a detailed explanation of the staff recommended amendments to those originally approved and published:

### **13 AAC 85.210 Basic employment standards for probation, parole, and correctional officers**

§(b)(4) Drug Use: Numerous comments from the published police regulations were received supporting discretionary language be implemented for exigent circumstances of drug use. Other comments addressed the level, or schedule, of drugs that should be considered as disqualifying vs those considered by the DEA and State as less dangerous or habit-forming.

Input received from DOC indicates they also support this approach and agree that the standards under consideration for police should be applied to corrections as well. These proposed changes mirror the recommended changes to the police regulations to maintain consistency.

The DOL suggested more specific and clearly understood language than the proposed “exigent circumstances” be incorporated to guide the Council and staff as to what circumstances may qualify as an exception. APSC staff has incorporated these comments and recommendations into the following language<sup>1</sup>:

(4) within the **five** [10] years before the date of hire, has illegally used a **Schedule IA, IIA, IIIA, IVA or VA** controlled substance [ OTHER THAN MARIJUANA], unless the person was under the age of 21 at the time of using the controlled substance **or an immediate, pressing or emergency medical circumstance existed to justify the use of a prescription medication not specifically prescribed to the person;**

§(c)(1)(E) Background documentation: This housekeeping change, identified by the DOL, is to be consistent with language in §(b)(6), to read:

(E) information as to whether the person

(i) has been denied certification, has had the person's basic certificate revoked, or has surrendered the person's basic certificate, in this state or another jurisdiction, and whether the denial, [OR] revocation **or surrender**, if any, has been rescinded by the council under 13 AAC 85.270 or by the responsible **certifying** [LICENSING] agency of the issuing jurisdiction; or ...

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<sup>1</sup> Note that (b)(5) still prohibits marijuana use within one year.

### **13 AAC 85.215 Basic employment standards for municipal correctional officers:**

The identical changes mentioned, above, for probation, parole and correctional officers are also recommended for municipal corrections officers; for the sake of brevity, they have not been repeated here.

§(c) Background investigation: The DOL identified some inconsistencies between requirements for background checks on probation, parole and correctional officers and those required for municipal correctional officers. DOL recommended consistency be maintained, thus the below recommended language accomplishes this goal with one notable exception; a psychological evaluation required for corrections, probation and parole officers is still not recommended by APSC Staff as a requirement for municipal corrections officers.

(2) a thorough personal-history investigation of the person must be conducted to determine character traits and habits indicative of moral character and fitness as a municipal correctional officer; the investigation must include a check of

(A) criminal history;

(B) wants and warrants;

(C) job references from **at least three** previous employers **unless the person has had less than three previous jobs**; and

(D) **at least two** personal references.

### **13 AAC 85-230 Certification of Correctional, Probation and Parole Officers:**

No recommended changes to published draft regulations.

### **13 AAC 85-235 Certification of Municipal Correctional Officers:**

No recommended changes to published draft regulations.

### **13 AAC 85-240 Waiver and reciprocity**

No recommended changes to published draft regulations.

### **13 AAC 85-250 Personnel Reports and Training Records**

No recommended changes to published draft regulations.

### **13 AAC 85-260 Denial of Certificate**

§(b)(2) Drug use: For consistency between basic qualifications and certification standards, Staff recommends amending the proposed denial regulation to reflect the changes made to the basic standards regulation:

(b) The council will deny a basic certificate upon a finding that the applicant for the certificate ...

(2) has, after hire as a probation, parole, correctional, or municipal correctional officer,

(A) used marijuana;

(B) illegally used or possessed any [other] **Schedule IA, IIA, IIIA, IVA or VA** controlled substance **unless an immediate, pressing or emergency medical**

**circumstance existed to justify the use of a prescription medication not specifically prescribed to the person;** or

(C) illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled substance;

(3) [FOR] **of** a probation, parole, or correctional officer does not meet the standards in 13 AAC 85.210;

(4) [FOR] **of** a municipal correctional officer does not meet the standards in 13 AAC 85.215; or

The recommended changes in (3) and (4) above are simply to improve readability of the regulations.

### **13 AAC 85.270 Revocation of certificate**

§(a) Readability improvements to May revoke language: The DOL recommended we make some minor changes in §(a)(3) and (4) to improve readability of the regulations:

(a) The council **may** [WILL, IN ITS DISCRETION,] revoke a basic certificate upon a finding that the holder of the certificate

(1) falsified or omitted information required to be provided on an application for certification, or in supporting documents;

(2) has been discharged, or resigned under threat of discharge, from employment as a probation, parole, correctional, or municipal correctional officer in this state or any other state or territory for cause for inefficiency, incompetence, or some other reason that adversely affects the ability and fitness of the officer to perform job duties or that is detrimental to the reputation, integrity, or discipline of the correctional agency where the officer worked;

(3) [WHO] is a probation, parole, or correctional officer **and** does not meet the standards in 13 AAC 85.210(a) or (b); or

(4) [WHO] is a municipal correctional officer **and** does not meet the standards in 13 AAC 85.215(a) or (b).

§(b) Drug use in Shall revoke language: As with the denial regulation above, Staff recommends adopting language consistent with the drug use basic standards:

(2) has, after hire as a probation, parole, correctional, or municipal correctional officer,

(A) used marijuana;

(B) illegally used or possessed any [OTHER] **Schedule IA, IIA, IIIA, IVA or VA** controlled substance **unless an immediate, pressing or emergency medical circumstance existed to justify the use of a prescription medication not specifically prescribed to the person;** or

(C) illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled substance; or ...

### **13 AAC 85-280 Lapse of Certificates:**

No recommended changes to published draft regulations.

### **13 AAC 87-060 Training Requirements for Correctional, Probation and Parole Officers:**

DOC needs to re-structure their basic training system to balance their need to quickly hire and train new officers as well as assure new officers receive basic safety-related training as

soon as hired; Council member Belden mentioned this during our last meeting when the Council approved the draft changes for publication.

Like police agencies, DOC hires new officers and places them into their positions. They then send them to the next scheduled academy. Currently, an officer could be in an institution for several months before the next academy is scheduled, and they lack vital, high liability safety training until that time.

DOC proposed, and APSC staff agrees, that their training program should consist of an initial 40 hour training program that provides critical high liability safety training that must be completed within the first 30 days of employment. Officers would then have to attend the next scheduled academy and complete it within their probationary period. The topics of instruction have also been modified in the proposed language to reflect current issues and pending legislation.<sup>2</sup> At DOC's request, the probation and parole officer academy hours were increased to 200 hours to be on par with correctional officers and reflect their current course of instruction at these academies.

§(a): Correctional officer Training Program: APSC staff recommend that the Council approve the following amended language to the proposed regulation:

- (a) The basic **training** program of instruction for correctional officers must include:
  - (1) **an initial program of instruction, provided by the Department and completed within 30 days of hire that consists of a minimum of 40 hours and includes: cardiopulmonary resuscitation (CPR), blood borne pathogens and first aid instruction sufficient to qualify students for a council-approved basic first aid certificate; professional code of conduct & prohibition of sexual harassment, authorized employee property, core values of a correctional professional; use of force policy overview, avoiding offender set ups, Incident Command System, Prison Rape Elimination Act (PREA) and Suicide Awareness; and**
  - (2) **a correctional officer academy to be completed before the officer completes their probationary period that provides a minimum 200 hours of instruction in security procedures, custody, and supervision of inmates; use of force, firearms certification, and other less lethal weapons certification, and restraints; communication skills and techniques, report writing, and record keeping; officer safety, control techniques, mental health and suicide prevention, emergency procedures; diversity and disability awareness; [CARDIOPULMONARY RESUSCITATION (CPR), AND FIRST AID INSTRUCTION SUFFICIENT TO QUALIFY STUDENTS FOR A STANDARD RED CROSS FIRST AID CERTIFICATE, OR A COUNCIL-APPROVED EQUIVALENT; AND] legal issues, including the provisions of 22 AAC 05 and AS 33; and reentry and supervision standards.**

§(b): Probation and Parole officer Training Program: APSC staff recommend that the Council approve the following amended language to the proposed regulation:

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<sup>2</sup> HB77 will likely pass this legislative session and it will mandate training in recognizing and dealing with people who have "Non-apparent disabilities" for all police, corrections, probation and parole officers.

(b) The basic **training** program of instruction for probation and parole officers must include:

(1) **an initial program of instruction, provided by the Department and completed within 30 days of hire that consists of a minimum of 40 hours and includes; cardiopulmonary resuscitation (CPR), blood borne pathogens and first aid instruction sufficient to qualify students for a council-approved basic first aid certificate; professional code of conduct & prohibition of sexual harassment, authorized employee property, core values of a correctional professional, use of force policy overview, avoiding offender set ups, Incident Command System, Prison Rape Elimination Act (PREA) and Suicide Awareness;**  
**and**

(2) **A probation and parole officer academy to be completed before the officer completes their probationary period that provides** a minimum **200** [80] hours of instruction **on risk assessment, [IN] interviewing and counseling techniques; firearms familiarization and safety; [ DEPARTMENTAL AND INTER-AGENCY RELATIONS AND COMMUNICATION;] overview of the criminal justice system; use of force, other less lethal weapons certifications; use of restraints, communication skills and techniques, report writing and record keeping; diversity, officer safety and security, control techniques; mental health and suicide prevention, diversity and disability awareness, legal issues, reentry and supervision standards;** [ASPECTS OF PROBATION AND PAROLE; WRITTEN COMMUNICATION FORMS AND TECHNIQUES; ]techniques of supervision[; AND PERSONAL AND OFFICER SAFETY, SECURITY, FIRST AID ]and emergency procedures.

### **13 AAC 87-080 Training Requirements for Municipal Correctional Officers:**

DOC academy staff identified the need to include instruction on the Prison Rape Elimination Act (PREA) to the course of instruction given municipal correctional officers.

APSC staff recommends the following language be adopted in regulation:

§(a): Municipal Corrections Academy:

(a) The basic program of instruction for municipal correctional officers must include a minimum of 120 hours of instruction in security and search procedures, supervision of inmates, use of force and methods of self-defense, **disability awareness**, report writing, rights and responsibilities of inmates, fire and emergency procedures, domestic violence, communication skills and interpersonal relations, special needs inmates, recognition of the signs and symptoms of mental illness and retardation, substance abuse, physical deficiencies, suicide-prone behavior and suicide prevention, **Prison Rape Elimination Act (PREA)**, cross-cultural awareness, legal issues and liability, cardiopulmonary resuscitation (CPR), and first aid instruction sufficient to qualify students for a standard Red Cross first aid certificate or a council-approved equivalent.

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.210 (a) is amended to read:

(a) A person may not be hired as a probation, parole, or correctional officer unless the person meets the following minimum qualifications **at the time of hire**:

(1) is a citizen of the United States [, OR A RESIDENT ALIEN WHO HAS DEMONSTRATED AN INTENT TO BECOME A CITIZEN OF THE UNITED STATES];

(2) is 21 years of age or older;

(3) is of good moral character;

(4) has a **state recognized** high school **diploma, a diploma from a home school program recognized by their state or certified by a state or local school district as having met that state's graduation requirements** [DIPLOMA, OR ITS EQUIVALENT], or has passed a General Educational Development (GED) test;

(5) is [, AT THE TIME OF HIRE,] certified by a licensed physician, **nurse practitioner, or physician assistant** on a medical record form supplied by the council to be physically capable of performing the essential functions of the job of probation, parole, or correctional officer;

(6) has taken the Department of Corrections' psychological screening examination and is mentally capable of performing the essential functions of the job of probation, parole, or correctional officer and is free from any emotional disorder that may adversely affect the person's performance as a probation, parole, or correctional officer.

13 AAC 85.210 (b) is amended to read:

(b) A person may not be hired as a probation, parole, or correctional officer if that person

(1) has been convicted of **any** [A] felony or a misdemeanor crime of domestic violence by a civilian court of this state, the United States, or another state or territory, or by a military court;

(2) has been convicted by a civilian court of this state, the United States, or another state or territory, or by a military court, during the 10 years immediately before the date of hire as a

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

probation, parole, or correctional officer, of a crime of dishonesty or crime of moral turpitude, of a crime that resulted in serious physical injury to another person, or of two or more **DUI or** DWI offenses;

(3) has illegally manufactured, transported, or sold a controlled substance, unless the person was under the age of 21 at the time of the act and the act occurred more than 10 years before the date of hire;

(4) within the **five** [10] years before the date of hire, has illegally used a **Schedule IA, IIA, IIIA, IVA or VA** controlled substance [ OTHER THAN MARIJUANA], unless the person was under the age of 21 at the time of using the controlled substance **or an immediate, pressing or emergency medical circumstance existed to justify the use of a prescription medication not specifically prescribed to the person;**

(5) within the one year before the date of hire, has used marijuana, unless the person was under the age of 21 at the time of using marijuana;

(6) has been denied certification, has had the person's basic certificate revoked, or has surrendered the person's basic certificate, in this state or another jurisdiction, unless the denial, [OR] revocation **or surrender** has been rescinded by the council under 13 AAC 85.270 or by the responsible **certifying** [LICENSING] agency of the issuing jurisdiction; or

(7) is under suspension of a basic certificate in another jurisdiction, for the period of the suspension, unless the suspension has been rescinded by the responsible **certifying** [LICENSING] agency of the issuing jurisdiction.

13 AAC 85.210 (c) is amended to read:

(c) A person hired as a probation, parole, or correctional officer may not remain employed in that position without written confirmation from the Department of Corrections, submitted within 90 days after the date of hire, that the person meets the standards of (a) and (b) of this section. The council will grant an extension of the 90-day period, upon a written request by the Department of Corrections

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

that explains the reason the extension is necessary, and if the council determines that the person will probably be able to meet the standards by the end of the extension period. If the Department of Corrections concludes at the end of an investigation that a person does not meet the required standards, the person may not continue employment as a probation, parole, or correctional officer. For purposes of determining whether a person meets the standards of (a) and (b) of this section,

(1) the following information must be provided:

(A) proof of age, citizenship status, and applicable education;

(B) fingerprints on two copies of FBI Applicant Card FD-258; both cards must be forwarded to the automated fingerprint identification section of the Department of Public Safety;

(C) a complete personal history of the person on a form supplied [OR APPROVED] by the council;

(D) a complete medical history report of the person; the report must be provided to a licensed physician, **nurse practitioner, or physician assistant** for use in conducting a physical examination of the person;

(E) information as to whether the person

(i) has been denied certification, has had the person's basic certificate revoked, or has surrendered the person's basic certificate, in this state or another jurisdiction, and whether the denial, [OR] revocation **or surrender**, if any, has been rescinded by the council under 13 AAC 85.270 or by the responsible **certifying** [LICENSING] agency of the issuing jurisdiction; or

(ii) is under suspension of a basic certificate in another jurisdiction, for the period of the suspension, and whether the suspension, if any, has been rescinded by the responsible **certifying** [LICENSING] agency of the issuing jurisdiction;

(2) a thorough personal-history investigation of the person must be conducted to determine character traits and habits indicative of moral character and fitness as a probation, parole, or correctional officer; the investigation must include a check of

(A) criminal history;

(B) wants and warrants;

(C) job references from at least three previous employers unless the person has had less than three previous jobs;

(D) job references from all previous law enforcement or criminal justice system employers in the preceding 10 years; and

(E) at least two personal references; and

(3) the person must take the Department of Corrections' psychological screening examination and the person must undergo an examination by a licensed psychiatrist or psychologist.

13 AAC 85.210 (d) is amended to read:

(d) All information, documents, and reports provided or developed under (c) of this section must be placed in the permanent files of the Department of Corrections and must be available for examination, at any reasonable time, by representatives of the council. A copy of any criminal record discovered and of the following completed council forms must be sent to the council within 90 days after the date of each hire:

(1) repealed 10/24/92;

(2) the medical examination form;

(3) the health questionnaire;

(4) the personal history statement;

(5) the psychological screening report; and

(6) verification of a psychological or psychiatric examination report.

**(7) the compliance form to record the agency's compliance with (c)(1-3) above.**

13 AAC 85.210 (e) is amended to read:

(e) A probation, parole, or correctional officer must begin field training, using the Department of Corrections Field Training Manual, immediately after the date the officer is hired. The Field Training Manual must be completed and sent to the council within **twelve** [SIX] months after the date the officer began work with the department.

13 AAC 85.210 (f) is amended to read:

(f) The information in the council's files regarding an applicant or a probation, parole, or correctional officer is confidential, and available only for use by the council in carrying out the requirements of AS 18.65.130 - 18.65.290 and the regulations adopted under AS 18.65.130 - 18.65.290. However, training records and the documents listed in (c) and (d) of this section relating to an applicant or a probation, parole, or correctional officer may be reviewed by the applicant or officer. Information that indicates that a person might not qualify for certification as an officer, or that adversely reflects upon a person's ability to be a competent officer **may** [WILL, IN THE COUNCIL'S DISCRETION,] be furnished by the council to a correctional agency. An officer or applicant may not review information in the council's files which was supplied to the council with the understanding that the information or the source of the information would remain confidential, except that any information that serves as the basis for a decision to deny or revoke certification will be revealed to the officer or applicant.

(Eff. 8/8/90, Register 115; am 10/24/92, Register 124; am 8/5/95, Register 135; am 7/15/98, Register 147; am 2/20/99, Register 149; am 8/16/2000, Register 155; am 3/25/2001, Register 157; am 4/12/2001, Register 158; am 8/8/2007, register 183; am 2/13/2010, Register 193; am

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220 AS 18.65.242 AS 18.65.248

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.215 (a) is amended to read:

(a) A person may not be hired as a municipal correctional officer unless the person meets the following minimum qualifications at the time of hire:

(1) is a citizen of the United States [OR A RESIDENT ALIEN WHO HAS DEMONSTRATED AN INTENT TO BECOME A CITIZEN OF THE UNITED STATES];

(2) is 19 years of age or older;

(3) is of good moral character;

(4) is capable of reading and understanding operational rules and policies, and has demonstrated the ability to apply them;

(5) is [, AT THE TIME OF HIRE,] certified by a licensed physician, [LICENSED] physician's assistant, or [LICENSED AND CERTIFIED ADVANCED] nurse practitioner, on a medical record form supplied by the council, to be physically capable of performing the essential functions of the job of municipal correctional officer;

(6) is mentally and emotionally capable of performing the essential functions of the job of municipal correctional officer and is free from any emotional disorder that may adversely affect the person's performance as a municipal correctional officer.

13 AAC 85.215 (b) is amended to read:

(b) A person may not be hired as a municipal correctional officer if that person

(1) has been convicted of any [A] felony or a misdemeanor crime of domestic violence by a civilian court of this state, the United States, or another state or territory, or by a military court;

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

(2) has been convicted by a civilian court of this state, the United States, or another state or territory, or by a military court, during the three years immediately before the date of hire as a municipal correctional officer, of a crime of dishonesty or crime of moral turpitude, of a crime that resulted in serious physical injury to another person, or of two or more **DUI or** DWI offenses;

(3) has been convicted by a civilian court of this state, the United States, or another state or territory, or by a military court, of the sale, manufacture, transport, or possession for purposes of sale, manufacture, or transport of a controlled substance;

(4) within the three years before the date of hire, has illegally used a **Schedule IA, IIA, IIIA, IVA or VA** controlled substance [OTHER THAN MARIJUANA], unless the person was under the age of 21 at the time of using the controlled substance **or an immediate, pressing or emergency medical circumstance existed to justify the use of a prescription medication not specifically prescribed to the person;**

(5) has been denied certification, has had the person's basic certificate revoked, or has surrendered the person's basic certificate, in this state or another jurisdiction, unless the denial, [OR] revocation **or surrender** has been rescinded by the council under 13 AAC 85.270 or by the responsible **certifying** [LICENSING] agency of the issuing jurisdiction; or

(6) is under suspension of a basic certificate in another jurisdiction, for the period of the suspension, unless the suspension has been rescinded by the responsible **certifying** [LICENSING] agency of the issuing jurisdiction.

13 AAC 85.215 (c) is amended to read:

(c) A person hired as a municipal correctional officer may not remain employed in that position without written confirmation from the municipality, submitted within **30** [90] days after the date of hire,

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

that the person meets the standards of (a) and (b) of this section. The council will grant an extension of the 30 [90] day period, upon a written request by the municipality that explains the reason the extension is necessary, and if the council determines that the person will probably be able to meet the standards by the end of the extension period. If a municipality concludes at the end of an investigation that a person does not meet the required standards, the person may not continue employment as a municipal correctional officer. For purposes of determining whether a person meets the standards of (a) and (b) of this section,

(1) the following information must be provided:

(A) proof of age, citizenship status, and applicable education;

(B) fingerprints on two copies of FBI Applicant Card FD-258; both cards must be forwarded to the automated fingerprint identification section of the Department of Public Safety;

(C) a complete personal history of the person on a form supplied or approved by the council;

(D) a complete medical history report of the person; the report must be provided to a licensed physician, [LICENSED] physician's assistant, or [LICENSED AND CERTIFIED ADVANCED] nurse practitioner for use in conducting a physical examination of the person;

(E) information as to whether the person

(i) has been denied certification, has had the person's basic certificate revoked, or has surrendered the person's basic certificate, in this state or another jurisdiction, and whether the denial, [OR] revocation or surrender if any, has been rescinded by the council under 13 AAC 85.270 or by the responsible certifying [LICENSING] agency of the issuing jurisdiction; or

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

(ii) is under suspension of a basic certificate in another jurisdiction, for the period of the suspension, and whether the suspension, if any, has been rescinded by the responsible **certifying** [LICENSING] agency of the issuing jurisdiction; and

(2) a thorough personal-history investigation of the person must be conducted to determine character traits and habits indicative of moral character and fitness as a municipal correctional officer; the investigation must include a check of

(A) criminal history;

(B) wants and warrants;

(C) job references from **at least three** previous employers **unless the person has had less than three previous jobs**; and

(D) **at least two** personal references.

13 AAC 85.215 (d) is amended to read:

(d) All information, documents, and reports provided or developed under (c) of this section must be placed in the permanent files of the municipality and must be available for examination, at any reasonable time, by representatives of the council. A copy of any criminal record discovered and of the following completed council forms must be sent to the council within **30** [90] days after the date of each hire:

(1) medical examination form;

(2) health questionnaire;

(3) personal history statement.

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

**(4) the compliance Form to record the agency's compliance with (c)(1-2) above.**

(Eff. 4/12/2001, Register 158; am 6/13/2002, Register 162; am 8/8/2007, Register 183; am 2/13/2010,

Register 193; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220 AS 18.65.242 AS 18.65.248

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.230 (e) is amended to read:

(e) The council will recognize college credits or degrees awarded by an institution of higher learning towards satisfaction, in whole or in part, of the minimum number of hours required under 13 AAC 87.060 (a), if

(1) those credits or degrees are shown, to the council's satisfaction, to provide instruction in subject areas described in 13 AAC 87.060 that is substantially equivalent to a training program that has received certification under 13 AAC 87.050; and

(2) the institution is accredited by **a regional or national accrediting agency recognized by the United States Secretary of Education** [THE NATIONAL ASSOCIATION OF POST-SCECONDARY EDUCATION]. (Eff. 8/8/90, Register 115; am 6/13/2002, Register 162; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220            AS 18.65.242    AS 18.65.248

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.235 (d) is amended to read:

(d) The council will recognize college credits or degrees awarded by an institution of higher learning towards satisfaction, in whole or in part, of the minimum number of hours required under 13 AAC 87.080 (a), if

(1) those credits or degrees are shown, to the council's satisfaction, to provide instruction in subject areas described in 13 AAC 87.080 that is substantially equivalent to the instruction required as part of a municipal correctional officer training program that has received certification under 13 AAC 87.075; and

(2) the institution is accredited **by a regional or national accrediting agency recognized by the United States Secretary of Education** [THE NATIONAL ASSOCIATION OF POST-SCECONDARY EDUCATION]. (Eff. 4/21/2001, Register 158; am 6/13/2002, Register 162; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220 AS 18.65.242 AS 18.65.248

AS 18.65.285

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.240 (a) is amended to read:

(a) The council **may** [WILL] waive part or all of the training required under 13 AAC 85.230(b)(1) or (c)(1) or 13 AAC 85.235(b)(1) if an applicant furnishes evidence to the council's satisfaction of successful completion of an equivalent training program.

13 AAC 85.240 (c) is amended to read:

(c) Notwithstanding (a) of this section, the council will not grant a waiver if the applicant was previously issued a certificate that lapsed more than **five** [10] years before the waiver was sought. (Eff. 8/8/90, Register 115; am 8/5/95, Register 135; am 4/12/2001, Register 158; am 3/31/2005, Register 173; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220 AS 18.65.242 AS 18.65.248

AS 18.65.285

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.250 is amended by adding a new subsection to read:

**(d) A participating agency shall notify the council of an allegation of misconduct by an officer employed by their department within 30 days of the allegation being sustained by administrative review, if the misconduct alleged may be cause for revocation under 13 AAC 85.270.** (Eff. 8/8/90, Register 115; am 4/12/2001, Register 158; am 8/8/2007, Register 183; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220            AS 18.65.245

Editor's note: The forms required in 13 AAC 85.250 are available from the Alaska Police Standards Council, Department of Public Safety, P.O. Box 111200, Juneau, AK 99811-1200 or on the council's website at <http://www.dps.alaska.gov/APSC/forms.aspx> [STATE.AK.US/APSC/FORMS.ASPX].

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.260 (a) is amended to read:

(a) The council **may** [WILL, in its discretion,] deny a basic certificate upon a finding that the applicant for the certificate

(1) falsified or omitted information required to be provided on the application for certification or on supporting documents; or

(2) has been discharged, or resigned under threat of discharge, from employment as a probation, parole, correctional, or municipal correctional officer in this state or any other state or territory for cause for inefficiency, incompetence, or some other reason that adversely affects the ability and fitness of the officer to perform job duties or that is detrimental to the reputation, integrity, or discipline of the correctional agency where the officer worked.

13 AAC 85.260 (b) is amended to read:

(b) The council will deny a basic certificate upon a finding that the applicant for the certificate

(1) has been convicted of a misdemeanor crime of domestic violence, or after hire as a

(A) probation, parole, or correctional officer, has been convicted of a felony or of a misdemeanor crime listed in 13 AAC 85.210(b)(2); or

(B) municipal correctional officer, has been convicted of a felony, or of a misdemeanor crime listed in 13 AAC 85.215(b)(2) or (3);

(2) has, after hire as a probation, parole, correctional, or municipal correctional officer,

(A) used marijuana;

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

(B) illegally used or possessed any [OTHER] Schedule IA, IIA, IIIA, IVA or VA controlled substance unless an immediate, pressing or emergency medical circumstance existed to justify the use of a prescription medication not specifically prescribed to the person; or

(C) illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled substance;

(3) [FOR] of a probation, parole, or correctional officer does not meet the standards in 13 AAC 85.210;

(4) [FOR] of a municipal correctional officer does not meet the standards in 13 AAC 85.215; or

(5) has been discharged, or resigned under threat of discharge, from employment as a probation, parole, correctional, or municipal correctional officer in this state or any other state or territory for cause for conduct that would cause a reasonable person to have substantial doubt about an individual's honesty, fairness, and respect for the rights of others and for the laws of this state and the United States or that is detrimental to the integrity of the correctional agency where the officer worked.

13 AAC 85.260 (d) is amended to read:

d) If a person has been denied a basic certificate under this section, the person may petition the council for rescission of the denial after one year following the date of the denial. The petitioner must state in writing the reasons why the denial should be rescinded. A denial may [WILL, IN THE DISCRETION OF THE COUNCIL,] be rescinded for the following reasons:

(1) newly discovered evidence that by due diligence could not have been discovered before the effective date of the denial;

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

(2) the denial was based on a mistake of fact or law, or on fraudulent evidence; or

(3) conditions or circumstances have changed so that the basis for the denial no longer exists.

(Eff. 8/8/90, Register 115; am 10/24/92, Register 124; am 9/6/96, Register 139; am 7/15/98, Register 147; am 4/12/2001, Register 158; am 8/8/2007, Register 183; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220 AS 18.65.242 AS 18.65.245

AS 18.65.248 AS 18.65.270 AS 18.65.285

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.270 (a) is amended to read:

(a) The council **may** [WILL, IN ITS DISCRETION,] revoke a basic certificate upon a finding that the holder of the certificate

(1) falsified or omitted information required to be provided on an application for certification, or in supporting documents;

(2) has been discharged, or resigned under threat of discharge, from employment as a probation, parole, correctional, or municipal correctional officer in this state or any other state or territory for cause for inefficiency, incompetence, or some other reason that adversely affects the ability and fitness of the officer to perform job duties or that is detrimental to the reputation, integrity, or discipline of the correctional agency where the officer worked;

(3) [WHO] is a probation, parole, or correctional officer **and** does not meet the standards in 13 AAC 85.210(a) or (b); or

(4) [WHO] is a municipal correctional officer **and** does not meet the standards in 13 AAC 85.215(a) or (b).

13 AAC 85.270 (b) is amended to read:

(b) The council will revoke a basic certificate upon a finding that the holder of the certificate

(1) has been convicted of a misdemeanor crime of domestic violence or, after hire as a

(A) probation, parole, or correctional officer, has been convicted of a felony, or of a misdemeanor crime listed in 13 AAC 85.210(b)(2); or

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

(B) municipal correctional officer, has been convicted of a felony, or of a misdemeanor crime listed in 13 AAC 85.215(b)(2) or (b)(3);

(2) has, after hire as a probation, parole, correctional, or municipal correctional officer,

(A) used marijuana;

(B) illegally used or possessed any [OTHER] **Schedule IA, IIA, IIIA, IVA or VA** controlled substance **unless an immediate, pressing or emergency medical circumstance existed to justify the use of a prescription medication not specifically prescribed to the person;** or

(C) illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled substance; or

(3) has been discharged, or resigned under threat of discharge, from employment as a probation, parole, correctional, or municipal correctional officer in this state or any other state or territory for cause for conduct that would cause a reasonable person to have substantial doubt about an individual's honesty, fairness, and respect for the rights of others and for the laws of this state and the United States or that is detrimental to the integrity of the correctional agency where the officer worked.

(Eff. 8/8/90, Register 115; am 10/24/92, Register 124; am 9/6/96, Register 139; am 7/15/98, Register 147; am 4/12/2001, Register 158; am 8/8/2007, Register 183; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220 AS 18.65.242 AS 18.65.245

AS 18.65.248 AS 18.65.270 AS 18.65.285

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 85.280 (b) is amended to read:

(b) A person may request reinstatement of a lapsed certificate after serving an additional 12-month probationary period. The council may require supplemental training as a condition of reinstatement. A certificate **expires** [WILL NOT BE REINSTATED] if it has been lapsed for more than **four** [10] years. (Eff. 8/8/90, Register 115; am 8/5/95, Register 135; am 4/12/2001, Register 158; am 6/13/2002, Register 162; am 3/31/2005, Register 173; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Authority: AS 18.65.220 AS 18.65.242 AS 18.65.248

AS 18.65.285

13 AAC 87.060 (a) is amended to read:

(a) The basic **training** program of instruction for correctional officers must include:

(1) **an initial program of instruction, provided by the Department and completed within 30 days of hire that consists of a minimum of 40 hours and includes: cardiopulmonary resuscitation (CPR), blood borne pathogens and first aid instruction sufficient to qualify students for a council-approved basic first aid certificate; professional code of conduct & prohibition of sexual harassment, authorized employee property, core values of a correctional professional; use of force policy overview, avoiding offender set ups, Incident Command System, Prison Rape Elimination Act (PREA) and Suicide Awareness; and**

(2) **a correctional officer academy to be completed before the officer completes their probationary period that provides a minimum 200 hours of instruction in security procedures, custody, and supervision of inmates; use of force, firearms certification, and other less lethal weapons certification, and restraints; communication skills and techniques, report writing, and record keeping; officer safety, control techniques, mental health and suicide prevention, emergency procedures; diversity and disability awareness; [CARDIOPULMONARY RESUSCITATION (CPR), AND FIRST AID INSTRUCTION SUFFICIENT TO QUALIFY STUDENTS FOR A STANDARD RED CROSS FIRST AID CERTIFICATE, OR A COUNCIL-APPROVED EQUIVALENT; AND] legal issues, including the provisions of 22 AAC 05 and AS 33; and reentry and supervision standards.**

13 AAC 87.060 (b) is amended to read:

(b) The basic **training** program of instruction for probation and parole officers must include:

(1) an initial program of instruction, provided by the Department and completed within 30 days of hire that consists of a minimum of 40 hours and includes; cardiopulmonary resuscitation (CPR), blood borne pathogens and first aid instruction sufficient to qualify students for a council-approved basic first aid certificate; professional code of conduct & prohibition of sexual harassment, authorized employee property, core values of a correctional professional, use of force policy overview, avoiding offender set ups, Incident Command System, Prison Rape Elimination Act (PREA) and Suicide Awareness; and

(2) A probation and parole officer academy to be completed before the officer completes their probationary period that provides a minimum 200 [80] hours of instruction on risk assessment, [IN] interviewing and counseling techniques; firearms familiarization and safety;[ DEPARTMENTAL AND INTER-AGENCY RELATIONS AND COMMUNICATION;] overview of the criminal justice system; use of force, other less lethal weapons certifications; use of restraints, communication skills and techniques, report writing and record keeping; diversity, officer safety and security, control techniques; mental health and suicide prevention, diversity and disability awareness, legal issues, reentry and supervision standards; [ASPECTS OF PROBATION AND PAROLE; WRITTEN COMMUNICATION FORMS AND TECHNIQUES; ]techniques of supervision[; AND PERSONAL AND OFFICER SAFETY, SECURITY, FIRST AID ]and emergency procedures.

(Eff. 8/8/90, Register 115; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

Register \_\_\_\_\_, \_\_\_\_\_ 2016, Department of Public Safety

13 AAC 87.080 (a) is amended to read:

(a) The basic program of instruction for municipal correctional officers must include a minimum of 120 hours of instruction in security and search procedures, supervision of inmates, use of force and methods of self-defense, **disability awareness**, report writing, rights and responsibilities of inmates, fire and emergency procedures, domestic violence, communication skills and interpersonal relations, special needs inmates, recognition of the signs and symptoms of mental illness and retardation, substance abuse, physical deficiencies, suicide-prone behavior and suicide prevention, **Prison Rape Elimination Act (PREA)**, cross-cultural awareness, legal issues and liability, cardiopulmonary resuscitation (CPR), and first aid instruction sufficient to qualify students for a standard Red Cross first aid certificate or a council-approved equivalent.

(Eff. 4/12/2001, Register 158; am \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

Authority: AS 18.65.220      AS 18.65.230      AS 18.65.242