

Department of State  
Division of Publications

2 Rosa L. Parks, 8th Floor Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615.741.2650  
Fax: 615.741.5133  
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 12-05-12  
Notice ID(s): 1921  
File Date: 12/10/12

# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

**Agency/Board/Commission:** Tennessee Corrections Institute  
**Division:**  
**Contact Person:** C. Edward Scudder, Jr.  
**Address:** 500 James Robertson Parkway  
Davy Crockett Tower, Legal Office  
Nashville, Tennessee 37243  
**Phone:** (615) 532-5773  
**Email:** ed.scudder@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

**ADA Contact:** Don Coleman  
**Address:** 500 James Robertson Parkway  
Davy Crockett Tower, 12th Floor  
Nashville, Tennessee 37243  
**Phone:** (615) 741-6500  
**Email:** don.coleman@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1: Davy Crockett Tower  
Room 1B  
Address 2: 500 James Robertson Parkway  
City: Nashville, Tennessee  
Zip: 37243  
Hearing Date: 01/30/2013  
Hearing Time: 10:00 a.m.  CST/CDT  EST/EDT

**Additional Hearing Information:**

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only ONE Rule Number/Rule Title per row.)

| Chapter Number | Chapter Title                         |
|----------------|---------------------------------------|
| 1400-04        | Criteria for Waivers                  |
| Rule Number    | Rule Title                            |
| 1400-04-.01    | Submission of Waiver Request          |
| 1400-04-.02    | Waiver of Pre-Employment Requirements |

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

#### Substance of Proposed Rules

##### Chapter 1400-04

##### Criteria for Waivers

##### Table of Contents

1400-04-.01 Submission of Waiver Request  
 1400-04-.02 Waivers of Pre-employment Requirements

1400-04-.01 Submission of Waiver Request. A request for waiver of pre-employment requirements must be submitted by the prospective employing agency prior to the employment of the person requiring the waiver. Requests must be submitted no later than thirty (30) days prior to the next scheduled meeting of the Board of Control. Request for waiver filed/submitted by an individual will not be accepted by the Board of Control. The requesting department shall be represented by its designee before the Board of Control. Once a waiver has been granted for a previous pre-employment requirement for a particular employee, that requirement shall be considered waived for future applications for certification.

Authority: T.C.A. §§ 41-7-106 and 41-4-144.

1400-04-.02 Waiver of Pre-employment Requirements. A waiver of pre-employment requirements may be granted under the following circumstances:

- (1) No person may be employed as a local correctional officer, who requires a waiver under this section, until such waiver is granted.
  - (a) Military History - The Board of Control may waive pre-employment requirements relating to the military history on an individual basis and depending on the circumstances.
    1. Waivers may be granted from pre-employment requirements for the following separations from military service:
      - (i) an Entry Level Separation
      - (ii) a General Discharge under Honorable Conditions.
    2. Waivers will not be granted from pre-employment requirements for the following separation from military service:
      - (i) Dishonorable Discharge
      - (ii) Bad Conduct Discharge

- (iii) Other Than Honorable Discharge.
- (b) Criminal Activity - The Board of Control may consider a waiver from pre-employment requirements relating to criminal activity on an individual basis and depending on the circumstances.
  - 1. Waivers may be granted if the officer has been convicted of or pleaded guilty to or entered a plea of nolo contendere to any misdemeanor charge or to any misdemeanor violation of any state law or city ordinance (excluding domestic violence) with the following charges:
    - (i) relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages; or
    - (ii) controlled substances, as defined in the Tennessee Drug Control Act compiled in Title 39, Chapter 17, Part 4, when the offense was classed as a misdemeanor.
  - 2. The employing agency requesting waiver must present a copy of the final court disposition of the case.
  - 3. Some of the factors to be considered when determining whether to grant a waiver shall be:
    - (i) the amount of time since the offense;
    - (ii) the amount of time since completion of the sentence;
    - (iii) the type, circumstances and severity of the offense;
    - (iv) the applicant's activities since the offense; and
    - (v) the applicant's ability to carry a firearm pursuant to federal and state law.
- (c) Mental Illness or Disorder – There is no waiver from the certification requirement set forth in T.C.A. § 41-4-144(a)(9).

Authority: T.C.A. §§ 41-7-106 and 41-4-144.

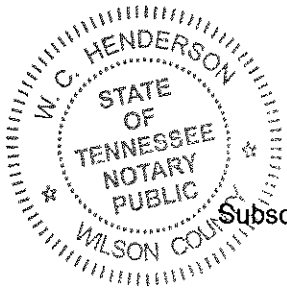
I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 12-10-2012

Signature: C. Ed. Scudder, Jr.

Name of Officer: C. Edward Scudder, Jr.

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: December 10, 2012

Notary Public Signature: W.C. Henderson

My commission expires on: September 19, 2013

Department of State Use Only

Filed with the Department of State on: 12/10/12

Tre Hargett  
Tre Hargett  
Secretary of State

RECEIVED

2012 DEC 10 PM 3:56

SECRETARY OF STATE  
REGISTRATIONS