

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-27 (rev. 6), “EMPLOYMENT STATUS PENDING RESOLUTION OF CRIMINAL
CHARGES OR PROTECTIVE ORDERS”

AUGUST 1, 2015

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Attachment A: Examples of Minor Traffic Violations (08/15)

Attachment B: PERS 548, Notification of Outstanding Warrant of Arrest (08/15)

Attachment C: PERS 420, Notification of an Employee Arrest or Criminal Charge (08/15)

Attachment D: PERS 617, Expiration of Suspension Without Pay Notification (08/15)

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TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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EXECUTIVE DIRECTIVE

SUBJECT: EMPLOYMENT STATUS PENDING RESOLUTION OF CRIMINAL CHARGES OR PROTECTIVE ORDERS

AUTHORITY: Tex. Gov't Code §§ 411.089, 493.001, 493.006(b), 493.007; Tex. Pen. Code § 46.04; 49 C.F.R. § 383.31; 18 U.S.C. §§ 921(a), 922(g); *Prison Rape Elimination Act* of 2003, 42 U.S.C. §§ 15601-15609

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

Employees of the TDCJ are required to notify the TDCJ in accordance with the procedures in this directive upon being arrested, learning of an outstanding warrant of arrest, or when criminal charges are filed against them for a misdemeanor or felony offense. In addition, certain employees identified in this directive are required to notify the TDCJ upon being named as a respondent in a protective order. The employment status of such employees shall be determined in a consistent and fair manner without regard to race, color, religion, sex (gender), national origin, age, disability, or genetic information.

DEFINITIONS:

“Administrative Supervision” is the supervision of dual supervised employees by supervisors responsible for ensuring an employee’s adherence to the daily operational and safety guidelines for the unit or department of assignment.

“Arrest” is when a person has been restrained and taken into custody by a peace officer or any other person without a warrant of arrest, or by a peace officer or other specifically named person executing a warrant of arrest.

“Commercial Driver” is an employee who has a commercial driver license and operates a commercial motor vehicle for the TDCJ on any occasion.

“Conviction,” for the purpose of this directive, is defined as a judicial or jury finding of guilt and the assessment of punishment, whether confinement or fines; community supervision (probation), including deferred adjudication; pardons or reprieves for any reason except actual innocence; juvenile adjudications of delinquent conduct if the juvenile records are not sealed; and an equivalent disposition of an offense under the laws of another state, federal law, or Uniform Code of Military Justice. The term does not include a pretrial diversion, which is an agreement between the defendant and prosecutor and occurs before a judicial finding, although a judge may approve of the defendant participating in the program.

“Criminal Charge” is an accusation of a crime by a citation, formal complaint, indictment, or information.

- a. “Citation,” for the purpose of this directive, is a written notice: (1) issued by a peace officer when charging a person with committing an offense; and (2) informing the person of the offense charged and the time and place the person must appear before a magistrate, such as a court date. This definition does not include a citation for a minor traffic violation or civil matter, such as a parking ticket, public nuisance, breach of contract, or divorce. See Examples of Minor Traffic Violations (Attachment A).
- b. “Formal Complaint,” when referring to a criminal charge, is an affidavit charging a named person or an unknown person with the commission of a specified offense. It is a written statement, made under oath, of the essential facts constituting the offense charged. When presented before a magistrate having proper jurisdiction, and if probable cause exists to believe the person charged committed the alleged crime, a warrant for the arrest of the person named in the complaint may be issued.
- c. “Indictment” is the written statement of a grand jury accusing a person of an offense.

- d. "Information," when referring to a criminal charge, is a written statement filed and presented on behalf of the state by the district or county attorney, charging a person with an offense.

"Dual Supervised Employee," for the purpose of this directive, is an employee who holds a position that is customarily departmentally budgeted, assigned to a unit, Correctional Institutions Division (CID) regional director's office, or the Parole Division, and reports to the department head for technical supervision and to the warden, regional director, or designee for administrative supervision.

"Magistrate" is any judge of a court, or anyone officially performing a judge's functions, such as a justice of the peace.

"Protective Order," for the purpose of this directive, is an order issued by a court intended to protect a person from being harmed by another.

"Reprimanding Authority," for the purpose of this directive, is a TDCJ official designated to perform certain duties relating to the employee disciplinary process.

"State Compensatory Time" is leave accrued at the rate of one hour for each hour worked and includes "comp time" and "holiday time" as reported on an employee's monthly TDCJ Employee Time Report.

"Technical Supervision" is the supervision of dual supervised employees by supervisors responsible for ensuring the employees adhere to technical policies and procedures and are trained to perform specialized or technical essential functions, such as functions directly related to agriculture, human resources, industry, or maintenance, and for evaluating and monitoring the employee's performance of such job duties.

"Warrant of Arrest" is a written order from a magistrate, directed to a peace officer or other specifically named person, commanding the peace officer or named person to take the body of the person accused of an offense to be dealt with according to law.

"Workday," for the purpose of this directive, is one of the following: (1) for the purpose of providing documents and scheduling employee hearings in accordance with the procedures in this directive, a workday is Monday through Friday, excluding state and national holidays for which TDCJ administrative offices are closed and a day when offices are closed at the direction of the executive director, such as for adverse weather; or (2) for the purpose of suspension without pay, a workday is a day the employee subject to suspension without pay is regularly scheduled to work.

PROCEDURES:

I. General Provisions

A. Employee Disciplinary Action

An employee shall not be subject to disciplinary action based exclusively on the employee's arrest, criminal charge, outstanding warrant of arrest, or because the employee is named as a respondent in a protective order. However, an employee shall be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," when one of the following occurs:

1. The employee fails to report, in accordance with the procedures in this directive, an arrest, criminal charge, outstanding warrant of arrest, conviction, becoming a respondent in a protective order, or any status change relating to such actions; or
2. Sufficient facts are available to determine, in accordance with the procedures in this directive, the *Prison Rape Elimination Act*, and PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," that the employee's actions in relation to the arrest, criminal charge, outstanding warrant of arrest, or protective order violates an employee general rule of conduct, such as Rule 43, On-Duty or Off-Duty Conduct.

B. Minor Traffic Violations

A commercial driver is required to report to the commercial driver's supervisor a conviction for violating a state or local law relating to motor vehicle traffic control, other than a parking violation, in any type of motor vehicle. Any other employee is not required to report a conviction for a minor traffic violation to the employee's supervisor. An employee may refer to the Examples of Minor Traffic Violations for assistance in determining whether an action is a minor traffic violation.

C. Confidentiality

Outstanding warrants of arrest, criminal charges, and protective orders may be confidential under the *Public Information Act*. An employee who is provided access to such information relating to another employee shall ensure the information remains confidential. If an employee who is provided access discloses such information without authorization, the employee shall be subject to disciplinary action in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

II. Warrants of Arrest

A. Employee's Duty to Report an Outstanding Warrant of Arrest – Alleged Misdemeanor Offense

1. An employee who learns of an outstanding warrant of arrest for a misdemeanor offense shall report such action by telephone or in person to the employee's immediate supervisor within 48 hours of learning of the outstanding warrant and before reporting for duty. The 48-hour time frame applies even if the employee learns of the warrant on the employee's off days, including a weekend or holiday. If the employee's immediate supervisor is not available, the employee shall report the action to the next highest ranking supervisor available.

The employee shall provide the following facts when reporting the warrant:

- a. Name of the jurisdiction or authority, such as police department or sheriff's department;
 - b. Location, such as city or county and state of the alleged offense; and
 - c. Nature of the alleged offense.
2. The supervisor to whom the employee reported the outstanding warrant shall provide written notification of the outstanding warrant of arrest to the employee's human resources representative.
 3. The human resources representative shall immediately place the employee in a leave status and shall provide a PERS 548, Notification of Outstanding Warrant of Arrest (Attachment B), to the employee in person and obtain the date and signature of the employee or mail to the employee via certified return receipt requested mail.
 - a. The PERS 548 advises the employee that the employee is being immediately placed in a leave status.
 - b. The employee is required to resolve the warrant of arrest, in accordance with procedures in Section II.B.1.a(2).
 - c. The employee must complete a PERS 24, Leave Request, and is required to use, in the order listed, accrued comp time, holiday time, vacation time, overtime, and leave without pay (LWOP) – Other until the warrant of arrest is no longer outstanding or until the end of the 30 calendar day period, whichever occurs first.

- d. The employee shall sign the PERS 548 or if the employee is unavailable to sign the PERS 548, the human resources representative shall send a copy to the employee via certified return receipt requested mail.
 - e. The human resources representative shall file the original PERS 548 in the employee's unit or department human resources file and provide a copy of the form to Employee Relations.
4. If the warrant of arrest is recalled or criminal charges are not filed, the employee shall provide the human resources representative with documentation from the appropriate authority, such as the issuing court, verifying that the warrant of arrest has been recalled. The employee shall provide such documentation within 48 hours of the warrant being recalled.

The human resources representative shall:

- a. Attach the documentation to the PERS 548;
 - b. Provide written notification of the outstanding warrant of arrest to the employee's warden, department head, regional director, or parole section director;
 - c. Provide a copy of the documentation to Employee Relations;
 - d. Provide notification, such as an email, of the resolution of the outstanding warrant of arrest to the employee's immediate supervisor and chain of supervision, up to and including, the warden or department head and, if applicable, regional director or parole section director;
 - e. Advise the employee that the employee shall not report to work until written permission, such as an email to the human resources representative, has been received from the warden, department head, regional director, division director, parole section director, or designee; and
 - f. Notify the employee upon receipt of such written permission and coordinate the employee's return to work.
5. If the employee is arrested or criminal charges have been filed, the employee shall report such action in accordance with the procedures in Section III.B, and the employee's status shall be determined in accordance with the procedures in Sections III.C, E, and F.

6. If the employee does not notify the TDCJ within 30 calendar days after receiving the PERS 548 that the warrant of arrest has been recalled or disposed of due to the payment of a fine, employee's arrest, or other action, the employee shall be administratively separated in accordance with PD-24, "Administrative Separation."

B. Outstanding Warrants of Arrest – Alleged Misdemeanor Offenses

Employee Relations shall conduct a semi-annual background check for each employee to ensure there are no outstanding warrants of arrest for the employee once during the month of the employee's birthday and once 180 days later.

1. Semi-Annual Background Check

- a. If the semi-annual background check for an employee indicates an outstanding warrant of arrest relating to an alleged misdemeanor offense, Employee Relations shall verify the warrant is active. If the warrant is active, Employee Relations shall notify the employee's human resources representative, who shall immediately place the employee in a leave status and provide a PERS 548.
 - (1) The PERS 548 advises the employee that the employee is being immediately placed in a leave status.
 - (2) The employee is required to resolve the warrant of arrest, such as by paying the fine or establishing bail, within 30 calendar days from receipt of the PERS 548 in person, or within 30 calendar days of the date the PERS 548 was sent via certified return receipt requested mail.
 - (3) During the interim, pending resolution of the warrant, the employee shall be placed on involuntary use of comp and holiday time. The employee may elect to use vacation and overtime or to be placed on LWOP-Other until the warrant is resolved, or until the end of the 30 calendar day period, whichever comes first.
- b. The employee shall sign the PERS 548 and the human resources representative shall file the original PERS 548 in the employee's unit or department human resources file and provide a copy of the form to Employee Relations.

If the employee is unavailable to sign the PERS 548, the human resources representative shall send a copy to the employee via

certified return receipt requested mail and provide a copy of the form to Employee Relations.

2. If the warrant of arrest is recalled or criminal charges are not filed, the employee shall provide the human resources representative with documentation from the appropriate authority, such as the issuing court, verifying that the warrant of arrest has been recalled. The employee shall provide such documentation within 48 hours of the next business day following the date the warrant was recalled.

The human resources representative shall:

- a. Attach the documentation to the PERS 548;
 - b. Provide a copy of the documentation to Employee Relations;
 - c. Provide notification, such as an email, of the resolution of the outstanding warrant of arrest to the employee's immediate supervisor and chain of supervision, up to and including, the warden or department head and, if applicable, regional director or parole section director;
 - d. Advise the employee that the employee shall not be allowed to report to work until written permission has been received from the warden, department head, regional director, division director, parole section director, or designee; and
 - e. Notify the employee upon receipt of such written permission and coordinate the employee's return to work.
3. If the employee is arrested or criminal charges have been filed, the employee shall report such action in accordance with the procedures in Section III.B, and the employee's status shall be determined in accordance with the procedures in Sections III.C, E, and F.
 4. If the employee does not notify the TDCJ within 30 calendar days after receiving the PERS 548 that the warrant of arrest has been recalled or disposed of due to the payment of a fine, employee's arrest, or other action, the employee shall be administratively separated in accordance with PD-24, "Administrative Separation."

C. Outstanding Warrant of Arrest - Alleged Felony Offense

If the semi-annual background check for an employee indicates an outstanding warrant of arrest relating to a felony offense, Employee Relations shall notify the

Office of the Inspector General (OIG). The OIG shall execute or coordinate the execution of the warrant of arrest with the law enforcement agency of jurisdiction. The employee shall report the arrest in accordance with the procedures in Section III.B, and the employee's status shall be determined in accordance with the procedures in Sections III.C, E, and F.

D. Employee's Duty to Report an Outstanding Warrant of Arrest – Alleged Felony Offense

If an employee reports an outstanding warrant of arrest relating to a felony offense, the supervisor to whom the employee reported the warrant shall notify Employee Relations. Employee Relations shall notify the OIG and the OIG shall execute or coordinate the execution of the warrant of arrest with the law enforcement agency of jurisdiction. The employee's status shall be determined in accordance with the procedures in Sections III.C, E, and F.

III. Arrest or Criminal Charges

A. Texas Department of Public Safety (DPS) Automatic Arrest Notification System

Upon receipt of an employee's fingerprints from Employee Relations, the DPS automatically notifies Employee Relations if the employee has been arrested.

1. Upon receiving a report of an employee's arrest, Employee Relations reviews the Payroll/Personnel System (PPS) to determine if the employee has already reported the arrest. If the arrest has not been reported, Employee Relations shall notify the employee's human resources representative, warden or department head, and regional director or parole section director.
2. Whether the employee remains at work or is placed in a leave status shall be determined in accordance with the procedures in Sections III.C and III.F of this directive.

B. Employee's Duty to Report an Arrest or Criminal Charge

1. An employee who is arrested or becomes the subject of a criminal charge for a misdemeanor or felony offense shall report such action by telephone or in person to the employee's immediate supervisor within 48 hours of the event and before reporting for duty. The 48-hour time frame applies even if the event occurs on the employee's off days, including a weekend or holiday. If the employee's immediate supervisor is not available, the employee shall report the action to the next highest ranking supervisor available. Such action may be reported by the employee's adult family

member, local law enforcement, or the employee's legal representative if the employee is unable to personally report the action.

The following facts shall be provided when reporting the event:

- a. Name of the jurisdiction or authority, such as a police or sheriff's department;
- b. Location, such as city or county and state of the alleged offense;
- c. Specific action, such as an arrest or indictment;
- d. Nature of the alleged offense;
- e. Date and time of arrest or criminal charge;
- f. Release status, such as being held without bail, release pending, or bond posted; and
- g. If known, the date of the employee's upcoming appearance before a magistrate, such as a court date.

2. The supervisor to whom the action was reported shall:

- a. Document the facts on the PERS 420, Notification of an Employee Arrest or Criminal Charge (Attachment C); and
- b. Provide the original PERS 420 to the human resources representative.

3. The human resources representative shall:

- a. Provide a copy of the PERS 420 and any supporting documentation to Employee Relations;
- b. Send an HR_ARREST e-form to Employee Relations;
- c. File the original PERS 420 in the employee's unit or department human resources file; and
- d. Ensure the employee reviews, signs, and dates the original PERS 420 before or immediately upon the employee's return to work.

4. Employee Relations shall verify the information on the PERS 420 and send an email regarding the employee's arrest or charge to the following, if applicable:
 - a. Warden or department head, for informational purposes only;
 - b. Regional director or parole section director; and
 - c. Division director, if the arrest or charge is for an alleged Class A or B misdemeanor or felony offense.

C. Employment Status Pending Prehearing Investigation

1. Regardless of whether an employee is allowed to return to work, the warden, department head, regional director, or parole section director shall immediately notify the OIG Investigations Department of an arrest or charge in accordance with AD-16.20, "Reporting Incidents/Crimes to the Office of the Inspector General." An investigation of the circumstances relating to an arrest or charge shall be conducted in order to determine whether, based on the available facts, a disciplinary hearing is warranted.
2. Written Permission to Return to Work
 - a. An employee who is arrested or becomes the subject of a criminal charge for a misdemeanor or felony offense shall not return to work until written permission is received as follows:
 - (1) Alleged Class C Misdemeanor Offense

The employee shall not return to work until written permission is received from the warden, department head, regional director, parole section director, or designee.
 - (2) Alleged Class A or B Misdemeanor or Felony Offense

The employee shall not return to work until written permission is received from the division director or designee.
 - b. If the employee's position is a dual supervision position, and the approving authority for the technical line of supervision approves the employee's return to work, approval shall also be obtained from the administrative line of supervision. However, if the approving authority for the technical line of supervision does not approve the return to work, no additional review is required by the administrative line of supervision.

- c. The appropriate TDCJ administrator shall ensure Employee Relations is provided written notification of whether the employee shall be allowed to return to work.
- d. Employee Relations shall notify the unit or department of the decision by responding to the previously submitted HR_ARREST e-form.
- e. The human resources representative shall notify the employee and the employee's line of supervision whether the employee shall be allowed to return to work and file the written notification in the activity section of the employee's unit or department human resources file.

3. Leave Status

An employee who is not allowed to return to work shall be placed in a leave status as follows:

- a. The employee shall use accrued state compensatory time.
- b. If the employee has exhausted all accrued state compensatory time, the employee may request use of accrued overtime or vacation time by completing a PERS 24.
- c. If the employee has exhausted all accrued leave balances except for sick time or elects to not use accrued overtime or vacation time, the employee may be suspended without pay.

4. Suspension without Pay Pending Resolution of Criminal Charge

The procedures in Section III.C.3 relating to required use of leave shall be followed. If required use of leave, with or without pay, was previously approved pending completion of the prehearing investigation, no further approval is necessary.

- a. The maximum period of suspension without pay pending resolution of the criminal charge is 180 days. If the employee is currently in LWOP status or changes to LWOP during the time frame, the maximum of 180 days total, regardless of leave type, shall not be extended due to a change in the type of LWOP. The employee shall be placed on suspension without pay until one of the following occurs:

- (1) The charge is dropped;
 - (2) The employee is found not guilty of the charge;
 - (3) The maximum 180 day period of suspension without pay is exhausted;
 - (4) The employee is convicted and the resulting disciplinary actions would allow the employee to return to work; or
 - (5) The criminal charge is reduced and a re-evaluation of the new criminal charges allows the employee to return to work.
- b. When an employee is being placed on suspension without pay pending resolution of a criminal charge, the human resources representative shall enter a payroll status change (PSC) in the PPS and enter the following information:
- (1) “Suspension Without Pay” in the Payroll Status Change Update (PSCUPD) screen;
 - (2) “Pending Resolution of a Criminal Charge” in the “Description Field;” and
 - (3) “CCPE” (criminal charges pending email) in the “Attachment Field,” which indicates the human resources representative received an email from the appropriate TDCJ administrator advising that the employee shall not be allowed to return to work. In addition, the human resources representative shall provide a copy of the email to the appropriate payroll contact.
- c. If the employee is separated from employment due to exhaustion of the maximum 180 day period of suspension without pay, the human resources representative shall:
- (1) Enter a PSC of RS57B indicating the employee is being separated with city, county, state, or federal criminal charges pending;
 - (2) Notify the employee’s supervisor and chain of supervision, up to and including the warden or department head and, if applicable, the regional director or parole section director of the employee’s separation from employment;

- (3) Complete a PERS 617, Expiration of Suspension Without Pay Notification form (Attachment D), and shall:
 - (a) Provide a copy to the warden, department head, regional director, or parole section director;
 - (b) Place a copy in the employee's unit or department human resources file;
 - (c) Provide a copy to Employee Relations; and
 - (d) Send a copy to the employee via certified return receipt requested mail.
 - (4) Complete a PERS 327, Rehire Review Required, in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."
- d. The employee must re-apply to regain employment, and will be subject to a management "no rehire" review.

D. Prehearing Investigation

1. The warden, department head, regional director, parole section director, or designee shall conduct a review of the circumstances relating to the arrest or criminal charge to determine whether a prehearing investigation is warranted, based on the available facts. The review may include examination of the written arrest report, criminal complaint, consultation with the arresting officials, and statements voluntarily provided by the employee regarding the arrest or criminal charge. The assistance of the OIG Investigations Department may be beneficial in obtaining the written arrest report or criminal complaint. The disciplinary specialist, Employee Relations, Human Resources Division, may be consulted with any questions before proceeding.
2. If it is determined a prehearing investigation shall be conducted, the investigation shall be in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."
3. If the employee is a dual supervised employee, the prehearing investigation shall be coordinated between the appropriate warden or CID regional director, the administrative line of supervision, and the department head, the technical line of supervision.

4. The warden, department head, regional director, parole section director, or designee may be consulted with any questions before proceeding. If an OIG investigation is not conducted or when the OIG investigation is completed, the warden, department head, regional director, parole section director, or designee, based on the available facts, may be consulted in accordance with PD-22.
5. The prehearing investigator shall not contact any victims or witnesses. The only evidence that shall be used in the prehearing investigation is the OIG investigation, if applicable, the employee's voluntary statement, and the arrest reports.

E. Employment Status upon Completion of the Prehearing Investigation

1. If the reprimanding authority determines an employee hearing is warranted, procedures in PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees," shall be followed. If the employee is not dismissed in accordance with PD-22, the employee's return to work status shall be determined in accordance with the procedures in Section III.C.2.
2. If it is determined that insufficient facts are available to warrant an employee hearing pending resolution of the criminal charge, the warden, department head, regional director, parole section director, or designee shall inform the employee of one of the following actions within five calendar days of such a determination:
 - a. The employee shall return to work in the employee's current position beginning on the next calendar day the employee is regularly scheduled to work in accordance with the procedures in Section III.C.2;
 - b. Due to the nature of the alleged misdemeanor or felony offense, it has been determined the employee cannot continue to effectively function in the employee's previously assigned position and has been administratively reassigned in accordance with PD-79, "Employee Transfers and Reassignments," pending resolution of the criminal charge; or
 - c. Due to the nature of the alleged misdemeanor or felony offense, it is in the best interest of the TDCJ not to allow the employee to return to work pending resolution of the criminal charge.

F. Arrest or Criminal Charge(s) Status Update

1. An employee who is arrested or becomes the subject of a criminal charge for a misdemeanor or felony offense is responsible for providing the human resources representative with written notification, such as an IOC or email, of a scheduled appearance before a magistrate, such as a court date, indictment, dismissal, conviction, or any other similar action within 48 hours of the change in status. The written notification shall identify the date the change in status occurred. No later than 30 calendar days after providing the written notification of the change in status, the employee shall provide the human resources representative with a copy of documentation from an appropriate authority, such as a district attorney's office, confirming the change in status.
2. The human resources representative shall in turn provide written notification of the status update, such as an email, to Employee Relations.
3. Employee Relations shall review the new information and send an email regarding the employee's arrest or charge to the following, if applicable:
 - a. Warden or department head, for informational purposes only;
 - b. Regional director or parole section director; and
 - c. Division director, if the arrest or charge is for an alleged Class A or B misdemeanor or felony offense.

IV. Protective Order

A protective order against an employee prohibiting the use or possession of firearms shall be reported if the employee is required to carry, or required to have the ability to carry, and use a firearm while performing the employee's job duties, such as a correctional officer or parole officer. In addition, if a protective order against an employee has the potential to affect the employee's performance of job-related duties, such as a protective order filed by another TDCJ employee, the protective order shall be reported.

A. Employee Duty to Report a Protective Order

1. An employee shall report being named as a respondent in a protective order to the employee's immediate supervisor by telephone or in person within 48 hours after the court provides the employee with oral notice or a copy of the protective order, whichever occurs first, and before reporting for duty. The 48-hour time frame applies even if the notice or receipt occurs on the employee's off days, including a weekend or holiday. If the employee's immediate supervisor is not available, the employee shall report the action to the next highest ranking supervisor who is available.

2. The employee shall provide the following facts when reporting the event:
 - a. Name of the jurisdiction or authority, such as a justice of the peace;
 - b. Date of the order; and
 - c. Nature of the order.
3. Within 48 hours of receiving the protective order from the court and before reporting for duty, the employee shall also provide a copy of the protective order to the supervisor to whom the employee reported the event. The supervisor to whom the employee reported the event shall:
 - a. Document the facts provided by the employee on the PERS 462, Notification of a Protective Order (Attachment E).
 - b. Provide a copy of the PERS 462 with a copy of the protective order to the warden, department head, regional director, or parole section director; and
 - c. Provide the original PERS 462 and copy of the protective order to the human resources representative for placement in the employee's unit or department human resources file.

B. Report of a Protective Order by Other Individual

If a law enforcement agency or other individual reports a protective order against an employee, Employee Relations shall be notified in order to verify whether the order has been issued by the court and served to the employee.

1. Employee Relations shall obtain a copy of the order and ensure the employee's human resources representative has a copy of the order.
2. The human resources representative shall:
 - a. Document the facts on the PERS 462;
 - b. Provide a copy of the PERS 462 to Employee Relations;
 - c. Provide a copy of the PERS 462 with a copy of the protective order to the warden, department head, regional director, or parole section director; and
 - d. Place the original PERS 462 and a copy of the protective order in the employee's unit or department human resources file.

C. Return to Work

An employee shall review, sign, and date the PERS 462, for the human resources representative, immediately upon or before reporting to work and before the performance of duties. If the employee is unavailable to sign and date, the human resources representative shall send a copy of the PERS 462 via certified return receipt requested mail.

1. An employee who is required to carry or required to have the ability to carry a firearm shall:
 - a. Report to work if the warden, department head, regional director, division director, parole section director, or designee determines the protective order does not prohibit the employee from using or possessing a firearm; or
 - b. Not report to work if the warden, department head, regional director, division director, parole section director, or designee determines the protective order prohibits the employee from using or possessing a firearm.
 - (1) The protective order may identify a date when a determination is to be made regarding the duration of the protective order. Pending the determination of duration, the employee shall complete a PERS 24 and be required to use, in the order listed, accrued state compensatory time, vacation leave, overtime, and LWOP - Other.
 - (2) Upon the protective order becoming court ordered, the employee shall be recommended for administrative separation in accordance with PD-24, "Administrative Separation." If the protective order is removed or dismissed before the recommendation for administrative separation receives final approval, the employee shall furnish a copy of the court order indicating the protective order has been dismissed or removed to the employee's immediate supervisor. The copy of the court order shall be filed in the employee's unit or department human resources file. The employee must receive permission to return to work from the warden, department head, regional director, division director, parole section director, or designee.
2. An employee who is named as the respondent in a protective order that has the potential to affect the employee's performance of job-related duties, such as a protective order filed by another TDCJ employee, must receive

permission to return to work from the warden, department head, regional director, division director, parole section director, or designee. This allows the TDCJ to ensure the employee named as the respondent is not violating the protective order by reporting to work. If it is determined that reporting to work would violate the protective order, the procedures in Section IV.C.1.b(1) relating to use of time shall be followed.

Brad Livingston
Executive Director

Texas Department of Criminal Justice Examples of Minor Traffic Violations

A conviction for a minor traffic violation, such as a fine for a citation, is not a criminal charge for the purpose of PD-27, "Employment Status Pending Resolution of Criminal Charges or Protective Orders." An employee, other than a commercial driver, is not required to report a conviction for a minor traffic violation to the employee's immediate supervisor or to any other TDCJ supervisor or manager.

1. Blocking or retarding traffic.
2. Bicycle ordinance violations.
3. Crossing yellow line, driving left of center.
4. Disobeying traffic lights, signs, or signals.
5. Driving on shoulder.
6. Driving uninsured vehicle.
7. Driving with an expired or invalid driver license (has not been suspended or revoked).
8. Driving with blocked vision or tinted window.
9. Driving with expired plates or without plates.
10. Driving without registration or without proper registration.
11. Driving wrong way on one-way street.
12. Failure to display a driver license.
13. Failure to have vehicle under control.
14. Failure to maintain financial responsibility.
15. Failure to signal.
16. Failure to stop or yield to pedestrian.
17. Failure to submit report after accident.
18. Failure to yield right-of-way.
19. Faulty equipment, such as defective exhaust, horn, lights, mirror, muffler, signal device, steering device, tail pipe, or windshield wipers.
20. Following too closely.
21. Improper backing, such as backing into intersection or highway, backing on expressway, or backing over a crosswalk.
22. Improper blowing of horn.
23. Improper passing, such as passing on the right, passing in a no-passing zone, passing a stopped school bus, or passing a pedestrian in crosswalk.
24. Improper turn.
25. Invalid or unofficial inspection sticker, failure to display inspection sticker.
26. License plates improperly displayed or not displayed.
27. Operating overloaded vehicle.
28. Parking violation.
29. Racing, dragging, or contest for speed.
30. Seat belt or child restraint violations, unless charged with child endangerment.
31. Skateboard or roller skate violations.
32. Speeding.
33. Spilling load on highway.
34. Spinning wheels, improper start, zigzagging, or weaving in traffic.
35. Violation of noise control ordinance (vehicle).
36. Violation of driver license restrictions.
37. Violate Promise to Appear (not the same as Failure to Appear).

Examples of violations of law **not** considered minor traffic violations are: Driving While Intoxicated (DWI), Driving Under the Influence (DUI), Driving While License is Suspended (DWLS), Failure to Appear (FTA), Reckless Driving, Open Container, and Assault with a Motor Vehicle. An employee who is arrested or issued a citation for such action shall report the action to the employee's immediate supervisor within 48 hours of the event and before reporting for duty.

**Texas Department of Criminal Justice
Notification of Outstanding Warrant of Arrest**

Date: _____
(mm/dd/yyyy)

Employee's Name: _____ Month/Day of Birth _____
Last First MI (mm/dd)

Unit or Department: _____ Title: _____

(check one box)

- The above named employee provided notification of an outstanding warrant for an alleged offense, on the date listed above.
Date of Warrant: _____
- Misdemeanor Offense (If known, Class C Class B Class A) Felony Offense
- When Employee Relations, Human Resources Division conducted a background check, the check revealed an outstanding warrant of arrest for the above named employee relating to an alleged offense.

Law Enforcement Agency of Jurisdiction: _____ Telephone Number: _____
()
Area Code

Nature of the alleged offense: _____

The above named employee is being immediately placed in a leave status and has a maximum period of 30 calendar days from the date of this notification to resolve the outstanding warrant of arrest, such as the payment of a fine. The above named employee is required to use accrued leave with pay or leave without pay, and must coordinate such leave with the employee's human resources representative. If within 30 calendar days of this notification the employee does not notify the TDCJ that the outstanding warrant of arrest has been resolved or that other action relating to the warrant of arrest has been taken, such as an arrest or criminal charge, the employee shall be administratively separated in accordance with PD-24, "Administrative Separation." If the employee is scheduled to appear before a magistrate, such as a court date, arrested, or issued a criminal charge, as a result of the outstanding warrant of arrest, the employee shall report such action as soon as possible and no later than 48 hours from such incident. If such action occurs, the employee's status shall be determined in accordance with the procedures in PD-27, "Employment Status Pending Resolution of Criminal Charges or Protective Orders."

Supervisor's Printed Name _____ Title _____

Supervisor's Signature _____

Employee Acknowledgement: "I understand that I must provide my human resources representative with a written notification, such as an IOC or email, of any status update regarding this outstanding warrant of arrest, including resolution, such as the payment of a fine, scheduled appearance before a magistrate, such as a court date, arrest or criminal charge, or any other similar action as soon as possible, but no later than 48 hours from the change in status. If the warrant of arrest is resolved without an arrest or criminal charge, I must provide my human resources representative with documentation verifying that the warrant of arrest has been resolved. I understand that I may not return to work until such documentation is provided and I have received written permission from the warden, department head, regional director, division director, parole section director, or designee to return to work."

Employee's Signature _____ Date (mm/dd/yyyy) _____

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, incorrect information the TDCJ has collected about you be corrected.

Distribution:
Original: Employee's Unit or Department Human Resources File (Activity Section)
Copy: Warden, Department Head, Regional Director, Division Director, or Parole Section Director
Copy: Employee

Texas Department of Criminal Justice
Notification of an Employee Arrest or Criminal Charge

Date: _____ Time: _____ a.m. p.m.
(mm/dd/yyyy)

Employee's Name: _____ Month/Day of Birth _____
Last First MI (mm/dd)

Title: _____ Unit or Department: _____

The above named employee provided notification of an arrest or criminal charge for an alleged:

Misdemeanor Offense (If known, Class C Class B Class A) Felony Offense

on the date and time listed above, which was or was not within 48 hours of the arrest or criminal charge. The employee also provided the following information: _____

Name of the jurisdiction or authority: _____

Location: _____
City or County State

Specific action, such as an arrest or criminal charge: _____

Nature of the alleged offense: _____

Date and time of arrest or criminal charge: Date: _____ Time: _____ a.m. p.m.
(mm/dd/yyyy)

Release status: _____

If known, date of employee's upcoming appearance before a magistrate, such as a court date: _____

Supervisor's Printed Name Title

Supervisor's Signature

Employee: Review, sign, and date. You must receive written permission to return to work from the warden, department head, regional director, division director, parole section director, or designee.

"I understand I must provide my human resources representative with a written notification, such as an IOC or email, of any status updates regarding this arrest or criminal charge, including a scheduled appearance before a magistrate, such as a court date, dismissal, or any other similar action as soon as possible, but no later than 48 hours from the change in status. The written notification shall identify the date that the change in status occurred. As soon as possible and no later than 30 calendar days after I provide this written notification, I must provide my human resources representative with a copy of documentation from an appropriate authority, such as a district attorney's office, that confirms the change in status. I further understand the maximum period of suspension without pay pending resolution of the charge is 180 days."

Employee's Signature Date (mm/dd/yyyy)

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, incorrect information the TDCJ has collected about you be corrected.

Distribution:

- Original: Employee's Unit or Department Human Resources File (Activity Section)
- Copy: Warden, Department Head, Regional Director, Division Director, or Parole Section Director
- Copy: Employee Relations, Human Resources Division
- Copy: Employee

**Texas Department of Criminal Justice
Expiration of Suspension Without Pay Notification**

Employee Name			Date
Last	First	MI	(mm/dd/yyyy)
Employee Month/Day of Birth			
Employee Mailing Address			
Street or P.O. Box	City	State	Zip Code

Attached is a copy of the electronic payroll transaction that indicates your leave without pay has expired. If your charges are resolved at a later date, application should be made through the Employment Section, Human Resources Division. Rehire will be subject to a management "no rehire" review.

If you are eligible for continuation of your health insurance coverage through the provisions set forth by the *Consolidated Omnibus Budget Reconciliation Act* (COBRA), the Employees Retirement System of Texas (ERS) will mail information relating to this option to your home address. If you have any questions regarding your COBRA continuation rights, you should contact the Employees Retirement System of Texas at 1-877-275-4377.

HUMAN RESOURCES REPRESENTATIVE

Name (printed)

Signature

Phone Number

Date

Attachment(s)

Distribution:

Original – Employee

Copy – Employee’s Unit or Department Human Resources File, Payroll

Texas Department of Criminal Justice Notification of a Protective Order

Date: _____
(mm/dd/yyyy)

Time: _____ a.m. p.m.

Employee's Name: _____ Month/Day of Birth: _____
Last First MI (mm/dd)

Unit or Department: _____ Title: _____

The above named employee provided notification of placement under a protective order on the date and time listed above, which was or was not within 48 hours of the court providing the employee with oral notice or a copy of the protective order. The employee provided the information listed below and: (1) provided a copy of the protective order to me; or (2) will provide a copy of the protective order upon receipt from the court.

Reason(s) for reporting protective order:

1. Employee is required to carry or required to have the ability to carry a firearm, such as a correctional officer or parole officer.

The protective order does does not prohibit the employee from using or possessing a firearm.

2. Employee is named as a respondent in a protective order that has the potential to otherwise affect the employee's performance of job-related duties, such as a protective order was filed by another TDCJ employee.

If 2 is checked and, if applicable, name of other TDCJ employee who filed protective order: _____

Name of the jurisdiction or authority: _____ City and County: _____ State: _____

Nature of the protective order: _____

Date and time protective order received by employee: _____ Date: _____ Time: _____ a.m. p.m.
(mm/dd/yyyy)

Supervisor's Printed Name _____ Title _____

Supervisor's Signature _____

Employee is Required to Carry or Required to Have the Ability to Carry a Firearm:

(If the protective order prohibits the use or possession of a firearm, you must receive permission to return to work from the warden, department head, regional director, division director, parole section director, or designee.)

"If the protective order prohibits the use or possession of a firearm, I have provided my immediate supervisor with a court order that dismissed or removed the protective order."

Employee's Signature _____ Date (mm/dd/yyyy) _____

Employee is Named as a Respondent in a Protective Order that Otherwise has the Potential to Affect Performance of Duties:

You must receive permission to return to work from the warden, department head, regional director, division director, parole section director, or designee.

Employee's Signature _____ Date (mm/dd/yyyy) _____

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§ 552.021 and 552.023, to receive and review the collected information. Under Texas Government Code § 559.004, you are also entitled to request, in accordance with TDCJ procedures, incorrect information the TDCJ has collected about you be corrected.

Distribution:

Original: Employee's Unit or Department Human Resources File (Activity Section)

Copy: Warden, Department Head, Regional Director, Division Director, or Parole Section Director

Copy: Employee