

# **230-RICR-30-40-1**

## **TITLE 230 - DEPARTMENT OF BUSINESS REGULATION**

### **Chapter 30 - COMMERCIAL LICENSING**

#### **SUBCHAPTER 40 - CERTIFIED CONSTABLES**

##### **PART 1 - CERTIFIED CONSTABLES**

### **1.1 Authority**

This Part is promulgated by the Department of Business Regulation ("Department") in accordance with R.I. Gen. Laws §§ 9-5-10.1 through 9-5-10.6, Writs, Summons and Process (the "Act") and R.I. Gen. Laws § 42-14-17.

### **1.2 Purpose**

The purpose of this Part is to describe the licensing and regulation of Certified Constables as provided for in R.I. Gen. Laws § 9-5-10.1, clarify the renewal of Certified Constable licenses pursuant to R.I. Gen. Laws § 9-5-10.4, ensure procedures for the suspension, revocation or review of Certified Constables' certifications pursuant to R.I. Gen. Laws § 9-5-10.5, and outline a professional code of conduct pursuant to R.I. Gen. Laws § 9-5-10.1.

### **1.3 Scope**

This regulation applies to the licensing, renewal, operation, suspension, revocation, and discipline of Certified Constables.

### **1.4 Definitions**

- A. "Badge" means a metal emblem that indicates licensure by the Rhode Island Certified Constables' Board.
- B. "Board" means the Certified Constables' Board.
- C. "Certified Constable(s)" or "Licensee" means a certified constable applicant whose license has been approved by the Board pursuant to the Act and these regulations.
- D. "Criminal History Record" or "CHR" means the criminal history record provided by certified constable applicant pursuant to R.I. Gen. Laws § 9-5-10.1(b)(1)(ii).
- E. "Conflict of Interest" means a situation in which a Certified Constable is in a position to derive personal benefit from actions or decisions made in their official capacity.

- F. "Continuing Education" means a course of post-licensure training to update and/or increase knowledge of and competence in Certified Constables' work, which has been approved and recommended by the Board after consideration of its content and other relevant details that are submitted on a form provided by the Department.
- G. "Department" or "Division" means the Department of Business Regulation and/or the Division of Commercial Licensing and Regulation.
- H. "License" or "Identification Card" means the Department-issued photo identification card given to an approved Certified Constable applicant.
- I. "Private Investigator" means a freelance detective who carries out investigations on behalf of private clients and is licensed pursuant to R.I. Gen. Laws § 5-5-1 *et seq.*, the Private Detective Act, and the applicable local licensing authority.
- J. "Training Constable" means a Certified Constable that has been approved by the Board to train Certified Constable applicants and who has been a Certified Constable in good standing for a minimum of ten (10) years.
- K. "Trainee Identification" means a credential supplied by the Department to a Certified Constable applicant who has been approved for training by a Training Constable pursuant to § 1.5(E) of this Part.
- L. "Writ" means a form of written command in the name of a court of the State of Rhode Island to act, or abstain from acting, in some way and which meets the requirements of the Act.

## **1.5 Licensing**

- A. A certified constable license shall be effective for a period of two (2) years or until such approval is withdrawn by the Department, pursuant to R.I. Gen. Laws § 9-5-10.1(a).
- B. Pursuant to R.I. Gen. Laws § 9-5-10.1, all Certified Constable applicants shall be at least twenty-one (21) years of age and shall submit the following information to the Department:
  - 1. A completed Certified Constable application on form(s) provided by the Department;
  - 2. The applicant's current resume;
  - 3. The applicant's CHR;
  - 4. Two (2) letters of recommendation from attorneys licensed to practice law in Rhode Island each including at a minimum a statement that the licensed

attorney intends to engage the applicant in the service of process in Rhode Island;

5. A letter from a Training Constable who has been licensed and in good standing for a minimum of ten (10) years stating he/she will train the applicant, or in the alternative a letter from the applicant stating he/she has been unable to independently secure a Training Constable despite his or her best efforts;
  6. Indication of whether applicant intends to perform civil arrests in connection with § 1.11 of this Part;
  7. Two (2) passport style photographs;
  8. Proof of completion of one of the following:
    - a. Sixty (60) hours of earned credit from an accredited college, university, or institution;
    - b. Four (4) years of honorable military service; or
    - c. Twenty (20) years of honorable service with a local, state, or federal law enforcement agency;
  9. Proof of United States citizenship;
  10. Proof of possession of a valid motor vehicle operator's license;
  11. Proof of successful completion of unlawful drug use screening;
  12. Proof of successful completion of psychological testing performed by a professional licensed to administer psychological testing; and
  13. Proof of the applicant's training exemption qualifications pursuant to § 10(D)(6) of this Part if the applicant intends to request exemption from the training requirement outlined in § 1.10(D)(1) of this Part.
- C. Only applications determined to be complete by the Department will be provided to the Board for review and/or action.
- D. Training. Pursuant to R.I. Gen. Laws § 9-5-10.1(3)(i), any applicant that is recommended by the Board for training as a Certified Constable after review of his or her application may be assigned the Training Constable identified in § 1.5(B)(5) of this Part or a Training Constable randomly assigned by the Department pursuant to § 1.13 of this Part.
1. Applicants who are recommended by the Board for training must complete ninety (90) hours of training no sooner than ninety (90) days of

recommendation by the Board, pursuant to R.I. Gen. Laws § 9-5-10.1(b)(3)(ii).

2. An applicant must actively participate in the constable activity in which the Training Constable is involved. An applicant's observation of his or her Training Constable's training activity is permitted provided that the applicant is in such physical proximity to the Training Constable to understand the content and context of the Training Constable's actions and communications.
3. The applicant must wear his or her Trainee Identification at all times during his or her training with his or her Training Constable.
4. Upon completion of the applicant's training, the Training Constable must submit:
  - a. A letter with comments on the aptitude of the applicant;
  - b. A training log for the applicant's training period on a form provided by the Department; and
  - c. Verification of the Certified Constable applicant's compliance with § 1.13(A)(3) of this Part.
5. Training Log Requirements
  - a. The training log must include without limitation:
    - (1) The dates and times the applicant trained,
    - (2) The Court from which the particular summons, civil arrest or other order originated,
    - (3) The time the particular summons, civil arrest or other order was served or acted upon, and
    - (4) A detailed description of the training session.
  - b. The training log must be submitted within thirty (30) days of the last day of the applicant's training.
6. Pursuant to R.I. Gen. Laws § 9-5-10.1(b)(3)(iv), applicants not recommended for training will be so informed and denied by the Department.
7. Pursuant to R.I. Gen. Laws § 9-5-10.1(b)(3)(ii), the Department may waive the training requirement of ninety (90) hours for an applicant who:

- a. Has graduated from a certified police or law enforcement academy; and
  - b. Has a minimum of twenty (20) years of honorable service as a police or law enforcement officer.
- E. Examination. Every applicant who has satisfactorily completed training pursuant to § 1.5(D) of this Part, or is otherwise exempt from training under § 1.5(D)(7) of this Part, must successfully pass both an oral and a written examination by receiving a correct score of at least seventy percent (70%) on each portion of the test administered by the Board pursuant to R.I. Gen. Laws § 9-5-10.1(b)(4) prior to licensure.
  1. The oral examination must be completed within ninety (90) days of completion of § 1.5(D) of this Part and shall be proctored by the Board at a Board meeting.
  2. The written examination must be completed within sixty (60) days of the completion of the oral examination and may be proctored by a Department employee at a date and time that is convenient for the Department and the applicant.
  3. After both oral and written examinations have been completed, the Board will make a recommendation to the Department on the applicant's licensure, based on the totality of materials and information provided to the Department and the Board during the application process.
  4. When an applicant fails the first written exam, the applicant will be allowed to re-take the exam. If the applicant fails the written exam a second time, the applicant must be re-evaluated by the Board for recommendations on the completion of additional training before the applicant is approved to re-take the written examination. If the applicant fails the written exam a third time, the applicant must wait one (1) year before being permitted to re-take the exam.
  5. Upon passing both the oral and the written exams, the applicant must send the following additional materials to the Department:
    - a. Proof of a bond with sufficient sureties in the sum of ten-thousand dollars (\$10,000) pursuant to R.I. Gen. Laws § 9-5-10.2; and
    - b. A licensing fee in the amount of four-hundred dollars (\$400), payable to the "Rhode Island General Treasurer."
- F. Oath. After a final review of the Certified Constable's qualifications pursuant to R.I. Gen. Laws § 9-5-10.1(b)(5), the approved Certified Constable applicant shall be administered the oath and sworn in by an employee of the Department.

## **1.6 Renewals**

- A. Certified Constable renewal applications shall be submitted on forms provided by the Department and must contain all the information the Department requires, which pursuant to R.I. Gen. Laws § 9-5-10.4 includes but is not limited to the following:
1. The applicant's CHR, pursuant to R.I. Gen. Laws § 9-5-10.1(b)(1)(ii);
  2. Proof of ten hours of approved continuing education credit hours within the previous twenty-four (24) months in compliance with § 1.12(C) of this Part;
  3. Proof of bond continuation or a new bond in the amount of ten-thousand dollars (\$10,000) in compliance with R.I. Gen. Laws § 9-5-10.2;
  4. Indication of whether applicant intends to perform civil arrests in connection with § 1.11 of this Part; and
  5. A check or money order made payable to the "RI General Treasurer" in the amount of four-hundred dollars (\$400).
- B. Renewal applications must be received by the Department prior to the expiration of the Certified Constable's license.
- C. Failure to timely renew will render a Certified Constable's license expired.
- D. Any constable activity related to an expired license is expressly prohibited and may result in an enforcement action pursuant to § 1.14 of this Part.

## **1.7 Licenses and Badges**

- A. A Certified Constable must always clearly and visibly display his or her license while on duty and must verbally identify themselves as a Certified Constable to all individuals/entities being served or requesting professional credentials. A Certified Constable's use of his or her license shall be limited only to the matter for which he or she has been hired as a Certified Constable.
- B. All lost and/or stolen Certified Constable licenses must be reported to the Department within twenty-four (24) hours of knowledge of the loss along with a written statement explaining the circumstances of the loss.
1. If loss of the license was occasioned by actual or suspected theft, the Certified Constable to whom the license belonged must also report the theft to the appropriate police department and provide a copy of the subsequent police report to the Department.

2. When any license of a Certified Constable has been lost and/or stolen, the Certified Constable to whom the license belonged must complete an affidavit as to its loss and/or theft on a form provided by the Department.
  3. Upon review of the facts and circumstances of the loss, including the Certified Constable's written statement, affidavit, and/or relevant police report(s), the Department may issue a replacement license.
- C. If any Certified Constable wishes to obtain a metal badge in addition to his or her license, he/she must first receive written approval from the Department.
- D. In connection with any enforcement action under § 1.14 of this Part, the Department may require a Certified Constable to surrender his or her license and/or metal badge.

## **1.8 Conduct**

- A. Professional Standards. All Certified Constables in the execution of their duties shall:
1. Be competent to perform his or her duties and to assume the responsibilities of his or her position, including but not limited to knowledge of any applicable statutes, rules and/or regulations;
  2. Be tactful in the performance of his or her duties and exercise patience and discretion even under difficult circumstances;
  3. Be courteous in the answering of any nonlegal questions, while avoiding argument and unnecessary conversation;
  4. Treat everyone they encounter with dignity and respect;
  5. Refrain from conduct involving dishonesty, fraud, deceit, misrepresentation or that reflects adversely on the profession;
  6. Abstain from the knowing performance of services involving an actual or potential conflict of interest; and
  7. Dress in a professional manner.
- B. Prohibited Conduct.
1. A Certified Constable shall not personally participate in the service of any writ, summons or eviction in a matter for which that Certified Constable has already been retained as a Private Investigator.

2. A Certified Constable shall not participate in the service of any writ, summons or eviction in a matter involving any individual who is a relative, family member or close friend.
  3. A Certified Constable shall not knowingly engage in the service of a writ, summons or eviction where there exists a conflict of interest.
  4. A Certified Constable shall not use his or her license or badge for personal financial gain, to avoid consequences of potential or actual violations of law, or for obtaining privileges not otherwise available to him/her.
  5. A Certified Constable shall not use or display blue lights on motor vehicles, or use/display any license, badge or other credential containing either the word "police" or the phrase "law enforcement."
  6. A Certified Constable shall not give, lend or rent his or her license or badge to another person for its use by that person, nor shall a Certified Constable receive, lend or rent or otherwise use a license or badge from another licensee.
  7. A Certified Constable shall not give legal advice.
- C. A Certified Constable that is found by the Department to have violated any provision of § 1.8 of this Part may be subject to an enforcement action in accordance with § 1.14 of this Part.

## **1.9 Service, Forms and Returns**

- A. All Certified Constables may effectuate service between the hours of six (6) a.m. and ten (10) p.m. except for extraordinary circumstances that necessitate service outside those times.
- B. Pursuant to R.I. Gen. Laws § 9-5-24, no civil process whatsoever shall be served on Sunday, but every such service shall be utterly void.
- C. Pursuant to the rules of any and all Rhode Island courts, personal service of a summons and its associated documents, or of other documents not inconsistent with the law, may include but is not limited to leaving the aforementioned document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there or therein.
- D. All Certified Constables are required to provide such information as is mandated by law whether or not the form on which to document his or her activity requests it, and such information includes but is not limited to:
  1. The date and time of the service;

2. For a nine (9) day trespass and ejection, the date and time of the posting pursuant to R.I. Gen. Laws § 34-18-10;
  3. The name of the individual that accepted service and his or her printed and signed name if the individual is accepting service for a government agency; and
  4. The details and circumstance of both a tenant's eviction and the method by which the Certified Constable took possession of the subject property.
- C. Returns. All Certified Constables must provide a timely and accurate return of service or proof of service that must include the date, time, location and description of the service and must accurately state any fee received by a Certified Constable in connection with such service, in addition to any other requirements of any Rhode Island Court and on such forms as may be required.

### **1.10 Eviction Parameters**

- A. Upon issuance of any execution in a landlord-tenant action pursuant to R.I. Gen. Laws §§ 34-18-1 *et seq.*, 34-18.1-1 *et seq.*, or 31-44-2, the Certified Constable shall:
1. Personally serve the subject of the execution, if applicable;
  2. Provide a copy of the execution for the mover and the evictee, retain a copy for the Certified Constable's own records, and return the original to the court in accordance with the applicable statute(s) and court rule(s);
  3. Hire a locksmith to be present at the property that is the subject of the eviction when the Certified Constable is present to execute the writ, if one has not already been hired by any party to the eviction;
  4. Contact the local police if the Certified Constable has reason to believe that there will be substantial controversy or arguments, and in such circumstances the Certified Constable shall not enter the subject property until the local police are present;
  5. Take pictures of all rooms in the subject property before any contents are disturbed and take pictures of all items that cannot go into storage after removal from the subject property;
  6. Allow evictees to take any immediately necessary personal belongings including but not limited to clothing, medication, children's toys, service animals, pets, checkbooks and bills of any kind; and
  7. Take control and possession of the subject property before locking out any evictee(s).

- B. Non-Present Evictees. If an evictee is not present during an eviction, the Certified Constable shall:
1. Set aside an appropriate receptacle containing the evictee's necessary personal items, including but not limited to medication, prescription drugs, jewelry, and cash, maintain photodocumentary evidence of the items in the personal receptacle and maintain the personal receptacle in a location separate and apart from the evictee's other removed property;
  2. Contact an appropriate animal shelter or animal control authority for any pet or service animal; and
  3. Contact the local police and follow their instructions regarding any illegal drugs or firearms found on the subject property.
- C. The subject property is under the custody and control of the assigned Certified Constable until the eviction is complete.
- D. If completion of the eviction takes longer than one (1) day, the Certified Constable must exercise all due caution regarding the safety and security of the subject property, including but not limited to securing the property until the eviction is complete.
- E. If the eviction involves a moving company, the Certified Constable must perform a walk-through evaluation of the subject property after the moving company has completed its assignment. Any remaining evictee item and the reason it remains on the subject property should be photographed and documented.
- F. Once the execution has been completed, the Certified Constable must post the moving and storage company information, animal shelter or animal control agency information if applicable, and execution on the door of the subject property, and the Certified Constable must make a true return.
- G. Businesses. Any Certified Constable effectuating an execution for a place of business or for an entity that is, or is attempting to act as, a place of business shall only lock out the subject of the execution.
- H. A Certified Constable may enter a dwelling only if he/she is acting on a writ of execution, provided that a Certified Constable may enter any common hallway or common area within a multi-dwelling establishment.

## **1.11 Civil Arrests**

- A. Any Certified Constable or Certified Constable applicant seeking to effect civil arrests shall provide such information on his or her application in accordance with § 1.5(B)(6) or on his or her renewal application in accordance with § 1.6(A)(4) of this Part, and shall provide a minimum notice to the Department of at

least ten (10) days if the Certified Constable or Certified Constable applicant is amending his or her response to the most recent original or renewal application.

- B. When executing a writ of civil arrest, a Certified Constable shall endeavor to arrange a meeting with the subject of the civil arrest at the applicable court, whereupon the Certified Constable shall immediately request the civil arrest be recognized and heard by the appropriate judicial authority.
- C. When it is not reasonable to arrange a courthouse meeting with the subject of a civil arrest, the Certified Constable effectuating the civil arrest shall make every attempt to effectuate the civil arrest with the assistance of another Certified Constable.
- D. Pursuant to R.I. Gen. Laws § 10-10-6, a Certified Constable shall not attempt to or effectuate a civil arrest for a person who is in active military service or who has already been arrested and/or released on the same attachment.
- E. Pursuant to R.I. Gen. Laws § 9-5-25 and § 10-10-5, a Certified Constable shall not effectuate a civil arrest on a person entitled to vote on Election Day, not shall a Certified Constable effectuate a civil arrest on such a person on the day preceding or subsequent to Election Day.

## **1.12 Duty to Update Contact Information; Records Retention**

- A. Change of Address/Application Information. Written notice shall be given to the Department by each Licensee within ten (10) days of any change in mailing address, email address, or any other change in any information reported on the most recent application, including employees.
- B. Records Retention.
  - 1. Any records of or relating to a Certified Constable's actions described above in §§ 1.10, 1.11 and 1.12 of this Part including but not limited to photographs, reports, police requests and/or moving company receipts but excluding any document returned to the court and maintained in the court's Electronic Filing System ("EFS"), shall be maintained by the licensee for a minimum period of two (2) years from the date of occurrence.
  - 2. Proof of continuing education attendance shall be maintained by the licensee for a minimum period of two (2) years from the date of submission to the Department pursuant to § 1.6(A) and § 1.13 of this Part.

## **1.13 Training Constables**

- A. Pursuant to R.I. Gen. Laws § 9-5-10.1(3)(i), any Certified Constable in good standing for a minimum of ten (10) years and who is also approved by the Board

for training activity may act as a Training Constable for a Certified Constable applicant.

1. Any Training Constable may be randomly selected by the Department for a Certified Constable applicant who certifies that he or she is unable to independently secure a Training Constable in accordance with § 1.5(B)(5) of this Part.
2. A Training Constable may not train more than one Certified Constable applicant at any given time.
3. A Training Constable shall be compensated by the Certified Constable applicant in the amount of fifteen-hundred dollars (\$1,500.00) for his or her training pursuant to § 1.5(D)(1) of this Part.
4. The Training Constable shall comply with the requirements in § 1.5(D)(4) and (5) of this Part and submit the required documentation to the Department and failure to submit the required documentation to the Department shall render the application incomplete.

## **1.14 Continuing Education**

### **A. Continuing Education Course Approval.**

1. Continuing education courses must meet the following qualifications:
  - a. Courses must consist of at least one (1) credit hour of instruction;
  - b. Courses must substantially relate to the duties of a Certified Constable; and
  - c. Courses must be presented by a qualified instructor(s).
2. Continuing education courses are subject to evaluation and approval by the Board. Advance notice of said courses shall be made to the Department on forms made available by it, and shall include without limitation:
  - a. Name, date, time and location of the proposed course;
  - b. Name, e-mail address and phone number of the contact person submitting the application for the proposed course;
  - c. Name(s) and resume(s) of the proposed instructor(s);
  - d. Detailed description of the proposed course content and its relationship to the duties of a Certified Constable;

- e. An agenda for the proposed course;
  - f. All costs associated with a Certified Constable's participation in the proposed course; and
  - g. Number of clock and credit hours of the proposed course.
- 3. Continuing education courses not meeting the requirements of § 1.13(A) of this Part may not qualify for continuing education course credit hours pursuant to § 1.6 of this Part.
  - 4. Board approval for any continuing education course shall be valid for one (1) year from the date of approval.
  - 5. Each continuing education credit hour shall consist of fifty (50) minutes of continuous instruction.
- B. Licensees' Requirements.
- 1. All Certified Constables shall complete a minimum of ten (10) credit hours of continuing education during each two-year licensing period for which he/she holds a license and provide satisfactory proof of such compliance to the Department in conformity with § 1.6 of this Part.
  - 2. Excess continuing education hours may not be credited to a future calendar year or licensing cycle.

### **1.15 Enforcement and Penalties**

- A. Any violation of the Act or these regulations may be subject to enforcement by the Department as an administrative violation and may be grounds for license suspension, revocation or denial.
- B. After receiving a complaint regarding a Certified Constable or on its own initiative, but before formal action is taken on any particular license, written notice must be sent to the Certified Constable whose conduct is under review and that Certified Constable shall be provided ten (10) calendar days to respond to the substance of the given allegation unless the Department takes action pursuant to R.I. Gen Laws § 42-35-14(c).
- C. Any action taken by the Department as to any licensee pursuant to § 1.14 of this Part will follow the procedures in R.I. Gen. Law § 42-35-1 *et seq.*, the Administrative Procedures Act ("APA"), and Part 10-00-2 of this Title, DBR Rules of Procedure for Administrative Hearings (the "Rules of Procedure").
- D. Criminal History.

1. In accordance with R.I. Gen. Laws § 9-5-10.1(b)(1)(ii), any evaluation of a Certified Constable applicant's or licensee's criminal history record shall conform to the requirements of R.I. Gen. Laws § 28-5.1-14 (the "Fair Chance Act").
  2. To the extent consistent with the Fair Chance Act, any licensee sentenced to probation by a court and currently serving on probation as the result of the disposition of criminal charges may not simultaneously hold a Certified Constables' license. His or her license shall be suspended for the same amount of time as he or she is on probation, and he or she can petition the Department for his or her license reinstatement once the applicable period of probation has concluded.
- E. If R.I. Gen. Laws § 28-5.1-14 is inapplicable to the substance of the administrative action, and pursuant to the Department's authority under § 9-5-10.4 and § 9-5-10.5(a), the Department will use the following criteria to evaluate any license denial, revocation or suspension:
1. The nature and circumstances of the misconduct at issue, which includes but is not limited to a consideration of:
    - a. When the misconduct took place;
    - b. The age of the applicant/licensee at the time of the misconduct;
    - c. The reason(s) given by the applicant/licensee for committing the misconduct and the applicant/licensee's acknowledgment of responsibility for the crime(s); and
    - d. Whether the misconduct relates to the license possessed or sought.
  2. The applicant/licensee's subsequent conduct and present character, which includes but is not limited to a consideration of:
    - a. Whether the applicant/licensee has completed any applicable administrative sanction;
    - b. Whether the applicant/licensee has acknowledged his or her wrongdoing and expressed contriteness or remorse and the facts which support such acknowledgement;
    - c. Whether the applicant/licensee has settled his or her financial and/or other obligations arising from the misconduct and taken responsibility for his or her misconduct; and

- d. Whether the applicant/licensee has favorable recommendations from people (other than family members) aware of his or her past misconduct attesting to his or her current good character.
3. The applicant/licensee's present qualifications, which includes but is not limited to a consideration of:
- a. Whether the applicant is currently employed in the industry by another licensee;
  - b. Whether a current licensee has expressed a willingness to sponsor the applicant; and
  - c. Whether the applicant is willing to accept a probationary or temporary license.

### **1.16 Severability**

If any provision of these regulations, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions are declared to be severable.