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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 99-115

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. There is insufficient detail in the board’s analysis concerning the content of the rule. In addition, the analysis fails to indicate whether the board, in promulgating the rule, cooperated with the Law Enforcement Pursuit Standards Council and the Advisory Curriculum Committee, as required under s. 165.85 (4) (cm) 2., Stats.

b. The treatment clauses of the rule are incorrectly worded. [See, generally, s. 1.04, Manual.] For example, SECTION 1 should read: “LES 1.03 (18m) is created to read:”. SECTION 4 should read: “LES 3.07 is created to read:”.

c. In s. LES 1.03 (18m), “Means” should not be capitalized.

d. Since s. LES 3.03 (7) already exists, proposed s. LES 3.03 (7) is inappropriately numbered. Based on what is perceived as the apparent intent of proposed s. LES 3.03 (7), it is suggested that current s. LES 3.03 (intro.) be renumbered s. LES 3.03 (1) and current subs. (1) to (12) of s. LES 3.03 be renumbered pars. (a) to (L). Thus, SECTION 2 of the rule would create s. LES 3.03 (2) and the treatment clause should read: “LES 3.03 (2) is created to read:”. It appears that the introductory clause of new s. LES 3.03 (2) (a) should read:

For purposes of sub. (1) (g), a training guide entitled “Use Pursuit Guidelines” is approved by the board and shall include student performance objectives and the following model advisory

standards that may be used by any law enforcement agency to determine whether to initiate, continue or terminate police pursuit:

e. The inclusion of “(intro.)” in subds. 1., 2. and 3. of s. LES 3.03 (7) (a) is unnecessary.

f. It is suggested that in s. LES 3.03 (7) (a) 1. (intro.), “A” should replace “Any,” “police” should modify “pursuit” and “of the police pursuit” should modify “subject.”

g. In s. LES 3.03 (7) (a) 2., “police” should modify “pursuit” and “a law enforcement officer” should replace “officers.”

h. In s. LES 3.07 (7) (a) 2. a., the use of the notation “(s)” should be avoided. For purposes of construction of administrative rules, the singular includes the plural and the plural includes the singular. [See ss. 227.27 (1) and 990.001 (1), Stats.] In subd. 2. b., the parentheses should be deleted and the phrase “per provisions of” should be replaced by the phrase “as provided in.”

i. In s. LES 3.03 (7) (a) 3. (intro.), “a law enforcement officer” should replace “law enforcement officers,” “a police pursuit” should replace “vehicle pursuits” and it appears that “will” should be replaced by “should.”

j. In s. LES 3.03 (7) (b), reference to sub. (7) should be revised to account for the new numbering.

k. Section LES 3.07 should not be divided into a single subunit. [See s. 1.03, Manual.] The exception clause in the first sentence of s. LES 3.07 should read: “, except those who serve on a temporary or probationary basis,”. The use of “and/or” in s. LES 3.07 is inappropriate. [See s. 1.01 (9) (a), Manual.] The last sentence of s. LES 3.07 could be better stated.