

**Judicial Branch Certification Commission
Criminal Conviction Guidelines
(Effective May 05, 2023)**

These guidelines are issued by the Judicial Branch Certification Commission (“Commission”), pursuant to TEXAS GOVERNMENT CODE, Title 2, Subtitle L, Chapters 151 through 157. These guidelines describe the process used by the Commission to determine whether a criminal conviction indicates that an applicant or regulated person lacks the honesty, trustworthiness, or integrity to hold the certification, or whether a conviction warrants revocation or suspension of a current certification. These guidelines also present the general factors considered in all cases and the categories of crimes that are considered to relate to each type of certification issued by the Commission. (Note: in addition to certification of court reporters, guardians, and process servers, the Commission issues licenses to licensed court interpreters and registers court reporting firms. These guidelines apply to all certifications, licenses, and registrations issued by the Commission, but for convenience, the guidelines refer to “certification.”)

The Commission’s consideration is usually limited to criminal convictions in the applicant’s criminal history. If an applicant completed a deferred adjudication by entering a plea of guilty or nolo contendere in a criminal case which is dismissed after the applicant successfully completed a term of court supervision, the applicant is not considered to have been convicted for purposes of these guidelines. However, the Commission may consider a deferred adjudication to be a conviction if:

1. the applicant has not completed the term of court supervision;

2. the applicant completed the term of court supervision less than 5 years before applying for certification,
3. the applicant was charged with an offense listed in TEXAS CODE OF CRIMINAL PROCEDURE, Section 62.001(5);
4. the applicant was charged with an offense that would violate the laws and rules enforced by the Commission;
5. certification would enable the applicant to repeat the criminal offense; or
6. the applicant may pose a continuing threat to public safety.

I. Commission Process

Applications for certification require the applicant to provide information about criminal convictions, if any. The Commission's Certification Division also runs a state and national criminal background check on each certification application using the Texas Department of Public Safety (DPS) system. When the application or the DPS background check reveals a criminal conviction, the committee comprised of Certification Division staff that reviews criminal histories may request further information from the applicant in order to make a determination. If the conviction is not a basis for denying the application, the committee approves the completed application. If it is a basis for denying the application, the committee reviews the criminal conviction with reference to the applicable statutory provisions and these guidelines. If the committee determines that the application should be denied due to the criminal conviction, a letter from the Certification Division Director (the Administrative Director's designee) explaining the denial is mailed to the applicant. The letter clearly identifies the conviction(s) that forms the basis for the denial, cites the statutory authority for the denial, and advises the

applicant that he or she may request, within twenty (20) days of the date of the denial, to have the decision reconsidered by the Commission. The letter also informs the applicant that his or her request must be in writing and identify each point or matter of the decision to be reconsidered.

At its next regularly scheduled meeting, the Commission must consider the request and may allow the applicant or other witnesses to appear at the meeting and present sworn testimony. The Commission may limit the number of witnesses appearing and the time allotted for a witness' testimony. After it has reconsidered the applicant's request, the Commission may either affirm or reverse the decision to deny the application. The Commission must notify the applicant in writing of its decision on reconsideration. The Commission's decision is final and may not be appealed.

II. General Factors

In making a determination whether a criminal conviction indicates that an applicant lacks the honesty, trustworthiness, or integrity to hold the certification, or whether a conviction warrants revocation or suspension of a current certification, the Commission or Certification Division Director (the Administrative Director's designee) shall consider the following factors in addition to the guidelines stated in IV below:

1. The nature and seriousness of the crime;
2. The extent to which certification, registration, or licensing might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been convicted;

3. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the occupation;
4. The extent and nature of the person's past criminal activity;
5. The age of the person when the crime was committed;
6. The amount of time that has elapsed since the person's last conviction;
7. The conduct and work activity of the person before and after the conviction;
8. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
9. Other evidence of the person's fitness, including, but not limited to, letters of recommendation.

The Commission or Certification Division Director may also consider the proof provided by the applicant under IV below.

III. Types of Certification and Crimes

These guidelines reflect the most common or well-known categories of crimes. The vast majority of criminal convictions reviewed by the Commission will fit within the categories of crimes described below. However, these guidelines are not intended to be an exclusive listing and do not prohibit the Commission from considering crimes not listed below. After due consideration of the circumstances of the criminal act and the general factors listed above, the Commission may find that a conviction not described below is sufficient to deny, revoke, or suspend a certification.

In addition to the specific crimes listed below, multiple violations of any criminal statute will always be reviewed for any type of certification. Multiple

violations may reflect a pattern of behavior indicating that an applicant lacks the honesty, trustworthiness, or integrity to hold the certification.

COURT REPORTING

- Crimes against the person such as assaultive offenses, kidnapping, and murder.
- Crimes involving prohibited sexual conduct.
- Crimes involving dishonesty, fraud, deceit, misrepresentation, deceptive business practices, perjury, forgery, or obstruction of justice.
- Crimes involving tampering with government documents.
- Crimes involving drug related offenses.
- Crimes involving deliberate violence.
- Crimes involving children, the elderly, or disabled persons as victims.

GUARDIANSHIP CERTIFICATION

- Crimes against the person such as assaultive offenses, kidnapping, and murder.
- Crimes involving prohibited sexual conduct.
- Crimes involving dishonesty, fraud, misrepresentation, deceptive business practices, perjury, or forgery,.
- Crimes involving breach of fiduciary duty, Including misapplication of fiduciary property.
- Crimes involving tax fraud.
- Crimes involving tampering with government documents.
- Crimes against property such as theft or burglary.

- Crimes involving alcohol and drug related offenses.
- Crimes involving deliberate violence.
- Crimes involving children, the elderly, or disabled persons as victims.

PROCESS SERVER CERTIFICATION

- Crimes against the person such as assaultive offenses, kidnapping, and murder.
- Crimes involving public indecency or prohibited sexual conduct.
- Crimes involving dishonesty, fraud, misrepresentation, deceptive business practices, misapplication of fiduciary property, perjury, forgery, or obstruction of justice.
- Crimes involving tampering with government documents.
- Crimes against property such as theft or burglary.
- Crimes involving trespassing laws.
- Crimes involving breach of the peace.
- Crimes involving deliberate violence.
- Crimes involving being under the influence of drugs or alcohol.
- Crimes involving arson.
- Crimes involving children, the elderly, or disabled persons as victims.
- Crimes involving intentional cruelty to animals.

COURT INTERPRETERS

- Crimes against the person such as assaultive offenses, kidnapping, and murder.

- Crimes involving prohibited sexual conduct.
- Crimes involving dishonesty, fraud, deceit, misrepresentation, deceptive business practices, perjury, forgery, or obstruction of justice.
- Crimes involving tampering with government documents.
- Crimes involving deliberate violence.
- Crimes involving children, the elderly, or disabled persons as victims.

IV. Proof Provided by Applicant

The applicant or certification holder with a criminal history may also furnish proof in the form required by the Commission that the applicant has:

1. maintained a record of steady employment;
2. supported the applicant's dependent(s);
3. maintained a record of good conduct; and
4. paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

The applicant has the responsibility, to the extent possible, to obtain and provide this information to the Commission.