

By: Perry

H.B. No. 3790

A BILL TO BE ENTITLED

AN ACT

relating to creation of the Judicial Branch Certification Commission and the consolidation of judicial profession regulation; imposing penalties; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. JUDICIAL BRANCH CERTIFICATION COMMISSION

SECTION 1.01. Title 2, Government Code, is amended by adding Subtitle K to read as follows:

SUBTITLE K. COURT PROFESSIONS REGULATION

CHAPTER 151. GENERAL PROVISIONS

Sec. 151.001. DEFINITIONS. In this subtitle:

(1) "Certification" means a certification issued by the commission.

(2) "Commission" means the Judicial Branch Certification Commission.

(3) "Director" means the administrative director of the office.

(4) "License" means a license issued by the commission.

(5) "Office" means the Office of Court Administration of the Texas Judicial System.

(6) "Registration" means a registration issued by the commission.

(7) "Regulated person" means a person who holds a

1 certification, registration, or license issued by the commission.

2 CHAPTER 152. JUDICIAL BRANCH CERTIFICATION COMMISSION

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 152.001. SUNSET PROVISION. The Judicial Branch
5 Certification Commission is subject to Chapter 325 (Texas Sunset
6 Act), but is not abolished under that chapter. The commission shall
7 be reviewed during the period in which state agencies abolished in
8 2025 and every 12th year after 2025 are reviewed.

9 SUBCHAPTER B. COMMISSION

10 Sec. 152.051. ESTABLISHMENT OF COMMISSION. The Judicial
11 Branch Certification Commission is established to oversee the
12 regulatory programs assigned to it by state law or by the supreme
13 court.

14 Sec. 152.052. APPOINTMENT OF COMMISSION. (a) The
15 commission consists of nine members appointed by the supreme court
16 as follows:

- 17 (1) five judges; and
18 (2) four public members.

19 (b) Appointments to the commission shall be made without
20 regard to the race, color, disability, sex, religion, age, or
21 national origin of the appointee.

22 (c) A member appointed to the commission must be
23 knowledgeable about the professions certified by the commission.

24 Sec. 152.053. CONFLICT PROVISIONS. (a) In this section,
25 "Texas trade association" means a cooperative and voluntarily
26 joined statewide association of business or professional
27 competitors in this state designed to assist its members and its

1 industry or profession in dealing with mutual business or
2 professional problems and in promoting their common interest.

3 (b) A person is not eligible for appointment as a member of
4 the commission if the person or the person's spouse:

5 (1) is employed by or participates in the management
6 of a business entity or other organization receiving funds from the
7 commission;

8 (2) owns or controls, directly or indirectly, more
9 than a 10 percent interest in a business entity or other
10 organization receiving funds from the commission; or

11 (3) uses or receives a substantial amount of tangible
12 goods, services, or funds from the commission, other than
13 compensation or reimbursement authorized by law for commission
14 membership, attendance, or expenses.

15 (c) A person may not serve as a member of the commission or
16 act as the general counsel to the commission if the person is
17 required to register as a lobbyist under Chapter 305 because of the
18 person's activities for compensation on behalf of a profession
19 related to the operation of the commission.

20 (d) A person may not be a member of the commission and may
21 not be a commission employee employed in a "bona fide executive,
22 administrative, or professional capacity," as that phrase is used
23 for purposes of establishing an exemption to the overtime
24 provisions of the federal Fair Labor Standards Act of 1938 (29
25 U.S.C. Section 201 et seq.), if:

26 (1) the person is an officer, employee, or paid
27 consultant of a Texas trade association in the legal profession; or

1 (2) the person's spouse is an officer, manager, or paid
2 consultant of a Texas trade association in the legal profession.

3 Sec. 152.054. TRAINING. (a) A person who is appointed to
4 and qualifies for office as a member of the commission may not vote,
5 deliberate, or be counted as a member in attendance at a meeting of
6 the commission until the person completes a training program that
7 complies with this section.

8 (b) The training program must provide the person with
9 information regarding:

10 (1) this subtitle;

11 (2) the role and functions of the commission;

12 (3) the current budget for the commission;

13 (4) the results of the most recent formal audit of the
14 commission; and

15 (5) any applicable ethics policies adopted by the
16 commission or supreme court.

17 (c) A person appointed to the commission is entitled to
18 reimbursement, as provided by the General Appropriations Act, for
19 the travel expenses incurred in attending the training program
20 regardless of whether the attendance at the program occurs before
21 or after the person qualifies for office.

22 Sec. 152.055. TERMS; VACANCY; REMOVAL. (a) Members of the
23 commission serve staggered six-year terms. The terms of three
24 members expire on February 1 of each odd-numbered year.

25 (b) If a vacancy occurs during a member's term, the supreme
26 court shall appoint a replacement to fill the unexpired term.

27 (c) The supreme court may remove a member of the commission

1 for inefficiency or neglect of duty in office.

2 Sec. 152.056. PRESIDING OFFICER. The supreme court shall
3 designate a member of the commission as presiding officer of the
4 commission to serve in that capacity at the pleasure of the supreme
5 court.

6 Sec. 152.057. COMPENSATION; REIMBURSEMENT. (a) A
7 commission member may not receive compensation for service on the
8 commission.

9 (b) A commission member is entitled to reimbursement for
10 actual and necessary expenses incurred in performing functions as a
11 commission member, subject to any applicable limitation on
12 reimbursement provided by the General Appropriations Act.

13 Sec. 152.058. MEETINGS. (a) The commission shall meet at
14 least once in each quarter of the fiscal year.

15 (b) The commission may meet at other times at the call of the
16 presiding officer or as provided by commission rules.

17 Sec. 152.059. PUBLIC TESTIMONY. The commission shall
18 develop and implement policies that provide the public with a
19 reasonable opportunity to appear before the commission and to speak
20 on any issue under the jurisdiction of the commission.

21 SUBCHAPTER C. ADMINISTRATION

22 Sec. 152.101. RULES. The supreme court may adopt rules
23 consistent with this subtitle, including rules governing the
24 certification, registration, licensing, and conduct of persons
25 regulated under this subtitle.

26 Sec. 152.102. RULES REGARDING ADVERTISING OR COMPETITIVE
27 BIDDING. (a) Subject to any rules related to ethics or

1 professional conduct promulgated by the supreme court, the supreme
2 court may not adopt rules restricting advertising or competitive
3 bidding by a holder of a certification, registration, or license
4 except to prohibit false, misleading, or deceptive practices.

5 (b) In its rules to prohibit false, misleading, or deceptive
6 practices, the supreme court may not include a rule that:

7 (1) restricts the use of any medium for advertising;

8 (2) restricts the use of a regulated person's personal
9 appearance or voice in an advertisement;

10 (3) relates to the size or duration of an
11 advertisement by the regulated person; or

12 (4) restricts the regulated person's advertisement
13 under a trade name.

14 Sec. 152.103. ADMINISTRATIVE ATTACHMENT. (a) The
15 commission is administratively attached to the office.

16 (b) Notwithstanding any other law, the office shall:

17 (1) provide administrative assistance, services, and
18 materials to the commission, including budget planning and
19 purchasing;

20 (2) accept, deposit, and disburse money made available
21 to the commission;

22 (3) reimburse the travel expenses and other actual and
23 necessary expenses of commission members incurred in the
24 performance of official commission duties, as provided by the
25 General Appropriations Act; and

26 (4) provide the commission with adequate computer
27 equipment and support.

1 Sec. 152.104. DIRECTOR. The director shall:

2 (1) perform any duty assigned by the commission and
3 other duties specified by law; and

4 (2) administer and enforce the commission's programs.

5 Sec. 152.105. DIVISION OF RESPONSIBILITIES. The commission
6 shall develop and implement policies that clearly separate the
7 policy-making responsibilities of the commission and the
8 management responsibilities of the director and the staff of the
9 office.

10 Sec. 152.106. USE OF TECHNOLOGY. The commission shall
11 implement a policy requiring the commission to use appropriate
12 technological solutions to improve the commission's ability to
13 perform its functions. The policy must ensure that the public is
14 able to interact with the commission on the Internet.

15 Sec. 152.107. INFORMATION ON STANDARDS OF CONDUCT. The
16 director or the director's designee shall provide to members of the
17 commission and to office employees, as often as necessary,
18 information regarding the requirements for service or employment
19 under this chapter, including information regarding a person's
20 responsibilities under applicable laws relating to standards of
21 conduct for state officers or employees.

22 Sec. 152.108. PUBLIC INTEREST INFORMATION. (a) The
23 commission shall prepare information of public interest describing
24 the functions of the commission under this chapter and the
25 procedure by which complaints are filed and resolved under this
26 chapter.

27 (b) The commission shall make the information available to

1 the public and appropriate state agencies.

2 Sec. 152.109. COMPLAINTS. (a) The commission shall
3 establish methods by which consumers are notified of the name,
4 mailing address, and telephone number of the commission for the
5 purpose of directing complaints about persons regulated under this
6 subtitle to the commission.

7 (b) The commission shall list with its regular telephone
8 number any toll-free telephone number established under other state
9 law that may be called to present a complaint about a person
10 regulated under this subtitle.

11 Sec. 152.110. RECORDS OF COMPLAINTS. (a) The commission
12 shall maintain a file on each written complaint filed with the
13 commission under this subtitle. The file must include:

14 (1) the name of the person who filed the complaint;

15 (2) the date the complaint is received by the
16 commission;

17 (3) the subject matter of the complaint;

18 (4) the name of each person contacted in relation to
19 the complaint;

20 (5) a summary of the results of the review or
21 investigation of the complaint; and

22 (6) an explanation of the reason the file was closed,
23 if the commission closed the file without taking action other than
24 to investigate the complaint.

25 (b) The commission shall provide to the person filing the
26 complaint and to each person who is a subject of the complaint a
27 copy of the commission's policies and procedures relating to

1 complaint investigation and resolution. A person who reports a
2 complaint by telephone shall be given information on how to file a
3 written complaint.

4 (c) The commission, at least quarterly and until final
5 disposition of the complaint, shall notify the person filing the
6 complaint and each person who is a subject of the complaint of the
7 status of the investigation unless the notice would jeopardize an
8 ongoing investigation.

9 Sec. 152.111. COMPLAINT DISMISSAL. (a) The commission may
10 adopt a policy allowing office employees to dismiss complaints
11 that:

12 (1) clearly do not allege misconduct; or

13 (2) are not within the commission's jurisdiction.

14 (b) Office employees shall inform the commission of all
15 dismissals made under this section.

16 (c) A person who files a complaint that is dismissed under
17 this section may request that the commission reconsider the
18 complaint.

19 Sec. 152.112. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

20 (a) The commission shall develop and implement a policy to
21 encourage the use of appropriate alternative dispute resolution
22 procedures to assist in the resolution of internal and external
23 disputes under the commission's jurisdiction.

24 (b) The procedures relating to alternative dispute
25 resolution under this section must conform, to the extent possible,
26 to any model guidelines issued by the State Office of
27 Administrative Hearings for the use of alternative dispute

1 resolution by state agencies.

2 SUBCHAPTER D. POWERS AND DUTIES

3 Sec. 152.151. GENERAL POWERS AND DUTIES. (a) The
4 commission shall:

5 (1) administer and enforce this subtitle;

6 (2) develop and recommend rules to the supreme court;

7 (3) develop and recommend to the supreme court a code
8 of ethics for each profession regulated under this subtitle;

9 (4) set fees in amounts reasonable and necessary to
10 cover the costs of administering the programs or activities
11 administered by the commission, including examinations and
12 issuance and renewal of certifications, registrations, and
13 licenses; and

14 (5) in consultation with appropriate advisory boards,
15 establish qualifications for certification, registration, and
16 licensing under this subtitle.

17 (b) The commission may:

18 (1) require applicants for certification,
19 registration, or licensing under this subtitle to pass an
20 examination that is developed and administered by the commission or
21 with a person the commission contracts with to develop and
22 administer the examination and charge fees for the examination;

23 (2) require regulated persons to obtain continuing
24 education; and

25 (3) appoint necessary committees.

26 Sec. 152.152. ADVISORY BOARDS. (a) The commission may
27 establish advisory boards to advise the commission on policy and

1 persons regulated under this subtitle.

2 (b) An advisory board appointed under this section shall
3 meet at least once each year and on the call of the presiding
4 officer.

5 (c) An advisory board member serves without compensation
6 but is entitled to reimbursement for actual and necessary expenses
7 incurred in performing functions as an advisory board member,
8 subject to any applicable limitation on reimbursement provided by
9 the General Appropriations Act.

10 SUBCHAPTER E. CERTIFICATION, REGISTRATION, AND LICENSING

11 REQUIREMENTS

12 Sec. 152.201. EXAMINATIONS. (a) Not later than the 30th
13 day after the date a person takes an examination, the commission
14 shall notify the person of the results of the examination.

15 (b) If the examination is graded or reviewed by a testing
16 service:

17 (1) the commission shall notify the person of the
18 results of the examination not later than the 30th day after the
19 date the commission receives the results from the testing service;
20 and

21 (2) if notice of the examination results will be
22 delayed for longer than 90 days after the examination date, the
23 commission shall notify the person of the reason for the delay
24 before the 90th day.

25 (c) The commission may require a testing service to:

26 (1) notify a person of the results of the person's
27 examination; or

1 (2) collect a fee for administering an examination
2 from a person taking the examination.

3 (d) If requested in writing by a person who fails an
4 examination, the commission shall furnish the person with an
5 analysis of the person's performance on the examination.

6 Sec. 152.202. ENDORSEMENT; RECIPROCITY. (a) The
7 commission may waive any prerequisite to obtaining a certification,
8 registration, or license for an applicant after reviewing the
9 applicant's credentials and determining that the applicant holds a
10 certification, registration, or license issued by another
11 jurisdiction that has certification, registration, or licensing
12 requirements substantially equivalent to those of this state.

13 (b) The commission may waive any prerequisite to obtaining a
14 certification, registration, or license for an applicant who holds
15 a certification, registration, or license issued by another
16 jurisdiction with which this state has a reciprocity agreement.
17 The commission may make an agreement, subject to the approval of the
18 governor, with another state to allow for certification,
19 registration, or licensing by reciprocity.

20 Sec. 152.203. RULES ON INELIGIBILITY. The supreme court
21 shall adopt rules on applicants' ineligibility for certification,
22 registration, or licensing under this subtitle based on the
23 person's criminal history or other information that indicates the
24 person lacks the honesty, trustworthiness, or integrity to hold the
25 certification, registration, or license.

26 Sec. 152.204. CONTINUING EDUCATION. (a) The supreme court
27 may authorize and the commission by rule may require continuing

1 professional education for persons regulated under this subtitle.

2 (b) The rules for continuing professional education adopted
3 by the commission may include standards relating to:

4 (1) annual reporting by regulated persons or by
5 providers of continuing professional education;

6 (2) continuing professional education course content;
7 and

8 (3) the minimum number of hours of continuing
9 professional education required annually.

10 (c) The commission by rule may exempt certain persons,
11 including retired persons and persons with disabilities, from all
12 or a portion of the continuing education requirements.

13 Sec. 152.205. CODE OF ETHICS. (a) The commission shall
14 develop and recommend to the supreme court for adoption by rule a
15 code of ethics for persons regulated under this subtitle. In
16 developing the code of ethics, the commission may use the codes of
17 ethics adopted by state or national associations as models.

18 (b) The commission shall publish the code of ethics after
19 adoption by the supreme court.

20 (c) After publishing the code of ethics, the commission
21 shall propose to the supreme court a rule stating that a person who
22 violates the code of ethics is subject to an administrative penalty
23 assessed under Chapter 153.

24 (d) The commission shall update the code of ethics as
25 necessary to reflect changes in technology or other factors
26 affecting a profession regulated under this subtitle.

1 CHAPTER 153. COMMISSION ENFORCEMENT

2 SUBCHAPTER A. GENERAL ENFORCEMENT PROVISIONS

3 Sec. 153.001. INVESTIGATIONS. The commission may conduct
4 investigations as necessary to enforce the laws administered by the
5 commission.

6 Sec. 153.002. SUBPOENAS. (a) The commission may issue a
7 subpoena as provided by this section.

8 (b) The commission may request and, if necessary, compel by
9 subpoena:

10 (1) the production for inspection and copying of
11 records, documents, and other evidence relevant to the
12 investigation of an alleged violation of this subtitle, a law
13 establishing a regulatory program administered by the commission, a
14 rule adopted by the supreme court under this subtitle, or an order
15 issued by the commission or director; and

16 (2) the attendance of a witness for examination under
17 oath.

18 (c) A subpoena under this section may be issued throughout
19 this state and may be served by any person designated by the
20 commission or the director.

21 (d) The commission, acting through the attorney general,
22 may bring an action to enforce a subpoena issued under this section
23 against a person who fails to comply with the subpoena.

24 (e) Venue for an action brought under this section is in a
25 district court in:

26 (1) Travis County; or

27 (2) any county in which the commission may hold a

1 hearing.

2 (f) The court shall order compliance with the subpoena if
3 the court finds that good cause exists to issue the subpoena.

4 Sec. 153.003. CEASE AND DESIST ORDER. The director may
5 issue a cease and desist order if the director determines that the
6 action is necessary to prevent a violation of:

7 (1) this subtitle;

8 (2) a law establishing a regulatory program
9 administered by the commission; or

10 (3) a rule adopted by the supreme court under this
11 subtitle or order issued by the commission or the director.

12 Sec. 153.004. DENIAL, REVOCATION, SUSPENSION, OR REFUSAL TO
13 RENEW; REPRIMAND; PROBATION. (a) The commission may deny, revoke,
14 suspend, or refuse to renew a certification, registration, or
15 license or may reprimand a regulated person for a violation of this
16 subtitle, a law establishing a regulatory program administered by
17 the commission, a rule adopted by the supreme court under this
18 subtitle, or an order issued by the commission or director.

19 (b) The commission may place on probation a person whose
20 certification, registration, or license is suspended. If a
21 certification, registration, or license suspension is probated,
22 the commission may require the person to:

23 (1) report regularly to the commission on matters that
24 are the basis of the probation;

25 (2) limit practice to the areas prescribed by the
26 commission; or

27 (3) continue or renew professional education until the

1 person attains a degree of skill satisfactory to the commission in
2 those areas that are the basis for the probation.

3 Sec. 153.005. INJUNCTION. (a) The commission may apply to
4 a district court in any county for an injunction to restrain a
5 violation of this subtitle or a rule adopted under this subtitle by
6 a person.

7 (b) At the request of the commission, the attorney general
8 shall initiate and conduct an action in a district court in the
9 state's name to obtain an injunction under this section.

10 (c) If the state prevails in a suit under this section, the
11 attorney general may recover on behalf of the state reasonable
12 attorney's fees, court costs, and reasonable investigative costs
13 incurred in relation to the proceeding.

14 SUBCHAPTER B. ADMINISTRATIVE PENALTY

15 Sec. 153.051. IMPOSITION OF PENALTY. (a) The commission
16 may impose an administrative penalty on a person regulated under
17 this subtitle who violates this subtitle or a rule or standard
18 adopted or order issued under this subtitle.

19 (b) A proceeding under this subchapter imposing an
20 administrative penalty may be combined with a proceeding to impose
21 an administrative sanction. If a sanction is imposed in a
22 proceeding under this subchapter, the requirements of this
23 subchapter apply to the imposition of the sanction.

24 Sec. 153.052. AMOUNT OF PENALTY. (a) The amount of the
25 penalty may not exceed \$500 for each violation, and each day a
26 violation continues or occurs is a separate violation for purposes
27 of imposing a penalty.

1 (b) The amount shall be based on:

2 (1) the seriousness of the violation, including the
3 nature, circumstances, extent, and gravity of the violation;

4 (2) the threat to health or safety caused by the
5 violation;

6 (3) any previous violations;

7 (4) the amount necessary to deter a future violation;

8 (5) whether the violator demonstrated good faith,
9 including when applicable whether the violator made good faith
10 efforts to correct the violation; and

11 (6) any other matter that justice may require.

12 Sec. 153.053. REPORT AND NOTICE OF VIOLATION AND PENALTY.

13 (a) If the commission initially determines that a violation
14 occurred, the commission shall give written notice of the report by
15 certified mail to the person.

16 (b) The commission may appoint committees of advisory board
17 members to review complaints, initially determine whether a
18 violation occurred, and give written notice of the report by
19 certified mail to the person.

20 (c) The notice required under Subsections (a) and (b) must:

21 (1) include a brief summary of the alleged violation;

22 (2) state the amount of the recommended penalty; and

23 (3) inform the person of the person's right to a
24 hearing on the occurrence of the violation, the amount of the
25 penalty, or both.

26 Sec. 153.054. PENALTY TO BE PAID OR HEARING REQUESTED. (a)

27 Not later than the 20th day after the date the person receives the

1 notice sent under Section 153.053, the person in writing may:

2 (1) accept the determination and recommended penalty
3 of the commission; or

4 (2) make a request for a hearing on the occurrence of
5 the violation, the amount of the penalty, or both.

6 (b) If the person accepts the determination and recommended
7 penalty or if the person fails to respond to the notice, the
8 commission by order shall approve the determination and impose the
9 recommended penalty.

10 Sec. 153.055. NOTICE; HEARING. (a) If the person requests a
11 hearing, the commission shall give to the person written notice of
12 the hearing that includes the time, place, legal authority, and
13 jurisdiction under which the hearing is held and the laws and rules
14 related to the violation.

15 (b) The person may appear, present evidence, and respond to
16 questions from the commission at the hearing.

17 (c) The commission shall make findings of fact and
18 conclusions of law and promptly issue a proposal for a decision
19 about the occurrence of the violation and the amount of a proposed
20 penalty.

21 (d) On approval of the supreme court, the commission may
22 adopt rules governing the hearing, including rules on appearance by
23 telephone.

24 (e) The presiding officer of the commission may hold
25 prehearing conferences.

26 (f) The notice of the commission's order under Subsection
27 (a) that is sent to the person in accordance with Chapter 2001 must

1 include a statement of the right of the person to judicial review of
2 the order.

3 Sec. 153.056. DECISION BY COMMISSION. Based on the
4 findings of fact, conclusions of law, and proposal for a decision,
5 the commission by order may:

6 (1) find that a violation occurred and impose a
7 penalty; or

8 (2) find that a violation did not occur.

9 Sec. 153.057. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

10 Not later than the 30th day after the date the order of the
11 commission imposing an administrative penalty under Section
12 153.056 becomes final, the person shall:

13 (1) pay the penalty; or

14 (2) file a petition for judicial review of the
15 commission's order contesting the occurrence of the violation, the
16 amount of the penalty, or both.

17 Sec. 153.058. COLLECTION OF PENALTY. (a) If the person
18 does not pay the penalty and the enforcement of the penalty is not
19 stayed in accordance with supreme court rules, the penalty may be
20 collected.

21 (b) The attorney general may sue to collect the penalty and
22 may recover reasonable expenses, including attorney's fees,
23 incurred in recovering the penalty.

24 (c) A penalty collected under this subchapter shall be
25 deposited in the state treasury in the general revenue fund.

26 Sec. 153.059. APPEAL OF DECISION. (a) The supreme court
27 shall adopt rules governing appeals under this subchapter.

1 (b) The rules must require the appeal to be made to a special
2 committee consisting of three regional presiding judges. If the
3 alleged violation involves a certified guardian, the committee must
4 consist of two regional presiding judges and the presiding judge of
5 the statutory probate courts.

6 (c) An appeal must be filed not later than the 30th day after
7 the date the commission's order is issued.

8 (d) The special committee shall consider the appeal under an
9 abuse of discretion standard of review for all issues except issues
10 involving questions of law. The standard of review for issues
11 involving questions of law is de novo.

12 (e) If the special committee sustains the finding that a
13 violation occurred, the special committee may uphold or reduce the
14 amount of the penalty and order the person to pay the full or
15 reduced amount of the penalty.

16 (f) If the special committee does not sustain the finding
17 that a violation occurred, the special committee shall order that a
18 penalty is not owed.

19 Sec. 153.060. REMITTANCE OF PENALTY AND INTEREST. (a) If
20 the person paid the penalty and if the amount of the penalty is
21 reduced or the penalty is not upheld by the special committee, the
22 special committee shall order that the appropriate amount plus
23 accrued interest be remitted to the person not later than the 30th
24 day after the date the judgment of the special committee becomes
25 final.

26 (b) The interest accrues at the rate charged on loans to
27 depository institutions by the New York Federal Reserve Bank.

1 (c) The interest shall be paid for the period beginning on
2 the date the penalty is paid and ending on the date the penalty is
3 remitted.

4 Sec. 153.061. RELEASE OF BOND. (a) If the person gave a
5 supersedeas bond and the penalty is not upheld by the special
6 committee, the special committee shall order the release of the
7 bond.

8 (b) If the person gave a supersedeas bond and the amount of
9 the penalty is reduced, the special committee shall order the
10 release of the bond after the person pays the reduced amount.

11 CHAPTER 154. COURT REPORTERS CERTIFICATION AND SHORTHAND REPORTING

12 FIRMS REGISTRATION

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 154.001. DEFINITIONS. (a) In this chapter:

15 (1) "Advisory board" means the Court Reporters
16 Certification Advisory Board.

17 (2) "Certification" means, notwithstanding Section
18 151.001, a certification issued by the supreme court on the
19 commission's recommendation.

20 (3) "Official court reporter" means the shorthand
21 reporter appointed by a judge as the official court reporter.

22 (4) "Shorthand reporter" and "court reporter" mean a
23 person who engages in shorthand reporting.

24 (5) "Shorthand reporting" and "court reporting" mean
25 the practice of shorthand reporting for use in litigation in the
26 courts of this state by making a verbatim record of an oral court
27 proceeding, deposition, or proceeding before a grand jury, referee,

1 or court commissioner using written symbols in shorthand, machine
2 shorthand, or oral stenography.

3 (6) "Shorthand reporting firm," "court reporting
4 firm," and "affiliate office" mean an entity wholly or partly in the
5 business of providing court reporting or other related services in
6 this state.

7 (b) For purposes of Subsection (a)(6), a court reporting
8 firm, shorthand reporting firm, or affiliate office is considered
9 to be providing court reporting or other related services in this
10 state if:

11 (1) any act that constitutes a court reporting service
12 or shorthand reporting service occurs wholly or partly in this
13 state;

14 (2) the firm or affiliate office recruits a resident
15 of this state through an intermediary located inside or outside of
16 this state to provide court reporting services, shorthand reporting
17 services, or other related services in this state; or

18 (3) the firm or affiliate office contracts with a
19 resident of this state by mail or otherwise and either party is to
20 perform court reporting services, shorthand reporting services, or
21 other related services wholly or partly in this state.

22 Sec. 154.002. RULES. The supreme court may adopt rules
23 consistent with this chapter, including rules governing:

24 (1) the certification and conduct of official and
25 deputy court reporters and shorthand reporters; and

26 (2) the registration and conduct of court reporting
27 and shorthand reporting firms.

1 SECTION 1.02. Chapter 154, Government Code, as added by
2 this Act, is amended by adding Subchapter B, and a heading is added
3 to that subchapter to read as follows:

4 SUBCHAPTER B. COURT REPORTERS CERTIFICATION ADVISORY BOARD

5 SECTION 1.03. Sections 52.011 and 52.0111, Government Code,
6 are transferred to Subchapter B, Chapter 154, Government Code, as
7 added by this Act, redesignated as Sections 154.051 and 154.052,
8 Government Code, and amended to read as follows:

9 Sec. 154.051 [~~52.011~~]. ORGANIZATION. (a) The Court
10 Reporters Certification Advisory Board is established as an
11 advisory board to the commission. The advisory board is composed of
12 at least five members appointed by the supreme court [~~and is~~
13 ~~composed of:~~

14 [~~(1) one active district judge who serves as chairman,~~

15 [~~(2) two active attorneys licensed in this state who~~
16 ~~have been practicing members of the State Bar for more than the five~~
17 ~~years immediately preceding their appointment to the board,~~

18 [~~(3) two active official court reporters who have~~
19 ~~practiced shorthand reporting in this state for more than the five~~
20 ~~years immediately preceding their appointment to the board,~~

21 [~~(4) two active certified shorthand reporters who work~~
22 ~~on a freelance basis and who have practiced shorthand reporting for~~
23 ~~more than the five years immediately preceding their appointment to~~
24 ~~the board,~~

25 [~~(5) one representative of a shorthand reporting firm~~
26 ~~that is not owned by a certified shorthand reporter and that has~~
27 ~~operated as a shorthand reporting firm in this state for more than~~

1 ~~the three years immediately preceding the representative's~~
2 ~~appointment to the board;~~]

3 ~~[(6) one representative of a shorthand reporting firm~~
4 ~~that is owned by a certified shorthand reporter and that has~~
5 ~~operated as a shorthand reporting firm in this state for more than~~
6 ~~the three years immediately preceding the representative's~~
7 ~~appointment to the board; and~~

8 ~~[(7) four members who are representatives of the~~
9 ~~general public].~~

10 (b) Appointments to the advisory board shall be made without
11 regard to the race, color, disability, sex, religion, age, or
12 national origin of the appointees.

13 (c) The supreme court shall appoint a presiding officer of
14 the advisory board from among its members to serve for two years. [~~A~~
15 ~~person may not be a member of the board or act as the general counsel~~
16 ~~to the board if the person is:~~

17 ~~[(1) required to register as a lobbyist under Chapter~~
18 ~~305 because of the person's activities for compensation on behalf~~
19 ~~of a profession related to the operation of the board; or~~

20 ~~[(2) an owner, officer, or employee of a school or~~
21 ~~institution engaged in instructing persons in shorthand reporting~~
22 ~~skills.]~~

23 (d) A majority of the advisory board constitutes a quorum.

24 [~~In this subsection, "Texas trade association" means a cooperative~~
25 ~~and voluntarily joined statewide association of business or~~
26 ~~professional competitors in this state designed to assist its~~
27 ~~members and its industry or profession in dealing with mutual~~

1 ~~business or professional problems and in promoting their common~~
2 ~~interest. A person may not be a member of the board and may not be a~~
3 ~~board employee employed in a "bona fide executive, administrative,~~
4 ~~or professional capacity," as that phrase is used for purposes of~~
5 ~~establishing an exemption to the overtime provisions of the federal~~
6 ~~Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),~~
7 ~~and its subsequent amendments, if:~~

8 ~~[(1) the person is an officer, employee, or paid~~
9 ~~consultant of a Texas trade association in the field of shorthand~~
10 ~~reporting; or~~

11 ~~[(2) the person's spouse is an officer, manager, or~~
12 ~~paid consultant of a Texas trade association in the field of~~
13 ~~shorthand reporting.]~~

14 (e) Advisory board ~~[A person may not be a public member of~~
15 ~~the board if the person or the person's spouse:~~

16 ~~[(1) is a judge;~~

17 ~~[(2) is licensed to practice law in this state;~~

18 ~~[(3) is registered or certified by the board;~~

19 ~~[(4) is an elected public official;~~

20 ~~[(5) is a full-time governmental employee;~~

21 ~~[(6) is employed by or participates in the management~~
22 ~~of a business entity or other organization regulated by or~~
23 ~~receiving money from the board;~~

24 ~~[(7) owns or controls, directly or indirectly, more~~
25 ~~than a 10 percent interest in a business entity or other~~
26 ~~organization regulated by or receiving money from the board; or~~

27 ~~[(8) uses or receives a substantial amount of tangible~~

1 ~~goods, services, or money from the board other than compensation or~~
2 ~~reimbursement authorized by law for board membership, attendance,~~
3 ~~or expenses.~~

4 [~~(f) Board~~] members serve staggered six-year terms of
5 office, with the terms of one or two [~~or three~~] members expiring on
6 December 31 of each year.

7 (f) An advisory board [~~(g) A~~] member holds office until
8 that member's successor is appointed and has qualified for office.
9 An advisory [A] board member may not be appointed to an immediately
10 succeeding term unless the member has served less than three
11 consecutive years.

12 (g) [~~(h)~~] If a vacancy occurs on the advisory board, the
13 supreme court shall appoint a [~~similarly qualified~~] person to serve
14 the remainder of the term.

15 [~~(i) Board members serve without compensation but are~~
16 ~~entitled to reimbursement for actual and necessary expenses~~
17 ~~incurred in traveling and performing official board duties.~~]

18 Sec. 154.052 [~~52.0111~~]. ADVISORY BOARD MEMBER TRAINING.

19 (a) A person who is appointed to and qualifies for office as a
20 member of the advisory board may not vote, deliberate, or be counted
21 as a member in attendance at a meeting of the advisory board until
22 the person completes a training program that complies with this
23 section.

24 (b) The training program must provide the person with
25 information regarding:

26 (1) this chapter [~~the legislation that created the~~
27 ~~board~~];

1 (2) ~~[the programs operated by the board,~~
2 ~~[(3)]~~ the role and functions of the advisory board;
3 (3) ~~[(4) the rules of the board, with an emphasis on~~
4 ~~the rules that relate to disciplinary and investigatory authority,~~
5 ~~[(5)]~~ the current budget for the advisory board;
6 (4) ~~[(6)]~~ the results of the most recent formal audit
7 of the advisory board; and
8 (5) ~~[(7) the requirements of:~~
9 ~~[(A) the open meetings law, Chapter 551;~~
10 ~~[(B) the public information law, Chapter 552;~~
11 ~~[(C) the administrative procedure law, Chapter~~
12 ~~2001; and~~
13 ~~[(D) other laws relating to public officials,~~
14 ~~including conflict-of-interest laws; and~~
15 ~~[(8)]~~ any applicable ethics policies adopted by the
16 commission ~~[board or the Texas Ethics Commission]~~.

17 (c) A person appointed to the advisory board is entitled to
18 reimbursement, as provided by the General Appropriations Act, for
19 the travel expenses incurred in attending the training program
20 regardless of whether the attendance at the program occurs before
21 or after the person qualifies for office.

22 SECTION 1.04. Subchapter C, Chapter 52, Government Code, is
23 transferred to Chapter 154, Government Code, as added by this Act,
24 redesignated as Subchapter C, Chapter 154, Government Code, and
25 amended to read as follows:

26 SUBCHAPTER C. CERTIFICATION AND REGISTRATION

27 Sec. 154.101 ~~[52.021]~~. CERTIFICATION OF REPORTERS. (a) A

1 person may not be appointed an official court reporter or a deputy
2 court reporter unless the person is certified as a shorthand
3 reporter by the supreme court.

4 (b) A person may not engage in shorthand reporting in this
5 state unless the person is certified as a shorthand reporter by the
6 supreme court.

7 (c) A certification issued under this chapter must be for
8 one or more of the following methods of shorthand reporting:

- 9 (1) written shorthand;
10 (2) machine shorthand;
11 (3) oral stenography; or
12 (4) any other method of shorthand reporting authorized
13 by the supreme court.

14 (d) A person certified under state law as a court reporter
15 [~~this chapter~~] before September 1, 1983, may retain a general
16 certification authorizing the person to use any authorized method
17 of shorthand reporting. The person must keep the certification in
18 continuous effect.

19 (e) A person may not assume or use the title or designation
20 "court recorder," "court reporter," or "shorthand reporter," or any
21 abbreviation, title, designation, words, letters, sign, card, or
22 device tending to indicate that the person is a court reporter or
23 shorthand reporter, unless the person is certified as a shorthand
24 reporter by the supreme court. Nothing in this subsection shall be
25 construed to either sanction or prohibit the use of electronic
26 court recording equipment operated by a noncertified court reporter
27 pursuant and according to rules adopted or approved by the supreme

1 court.

2 (f) Except as provided by Section 154.112 [~~52.031~~] and by
3 Section 20.001, Civil Practice and Remedies Code, all depositions
4 conducted in this state must be recorded by a certified shorthand
5 reporter.

6 (g) The commission [~~board~~] may enforce this section by
7 seeking an injunction or by filing a complaint against a person who
8 is not certified by the supreme court in the district court of the
9 county in which that person resides or Travis County. Said action
10 for an injunction shall be in addition to any other action,
11 proceeding, or remedy authorized by law. The commission [~~board~~]
12 shall be represented by the attorney general and/or the county or
13 district attorney of this state, or counsel designated and
14 empowered by the commission [~~board~~].

15 (h) A court reporting firm shall register with the
16 commission [~~board~~] by completing an application in a form adopted
17 by the commission [~~board~~].

18 (i) Rules applicable to a court reporter are also applicable
19 to a court reporting firm. The commission [~~board~~] may enforce this
20 subsection by assessing a reasonable fee against a court reporting
21 firm. This subsection does not apply to court reporting services
22 performed outside of this state by a foreign shorthand reporter who
23 is not certified in this state for use in a court proceeding in this
24 state, provided that the work resulting from those services is
25 produced and billed wholly outside of this state.

26 [~~Sec. 52.0211. RULES ON CONSEQUENCES OF CRIMINAL~~
27 ~~CONVICTION. (a) Chapter 53, Occupations Code, applies to an~~

1 ~~applicant for or a holder of a certification or registration under~~
2 ~~this chapter, notwithstanding Section 53.002, Occupations Code.~~

3 ~~[(b) The supreme court shall adopt rules necessary to comply~~
4 ~~with Chapter 53, Occupations Code.]~~

5 Sec. 154.102 [~~52.022~~]. APPLICATION FOR EXAMINATION. A
6 person seeking certification must file an application for
7 examination with the commission [~~board~~] not later than the 30th day
8 before the date fixed for the examination. The application must be
9 accompanied by the required fee.

10 Sec. 154.103 [~~52.023~~]. EXAMINATION. (a) The examination
11 for certification in one or more of the authorized methods of
12 shorthand reporting consists of two parts, designated Part A and
13 Part B.

14 (b) Part A consists of five minutes of two-voice dictation
15 of questions and answers given at 225 words per minute, five minutes
16 of dictation of jury charges given at 200 words per minute, and five
17 minutes of dictation of selected literary material given at 180
18 words per minute. Each applicant must personally take down the test
19 material, either in writing or in voice, and must prepare a
20 transcript of the material taken down. The minimum passing grade
21 for each section of Part A is 95 percent. A dictionary may be used
22 during Part A. Each applicant has three hours to complete the
23 transcription of Part A. If an applicant finishes before the three
24 hours have elapsed, the applicant may review the transcript but may
25 use only the test material taken down by that applicant to review
26 the transcript. An error is charged for:

27 (1) each wrong word;

- 1 (2) each omitted word;
- 2 (3) each word added by the applicant that was not
3 dictated;
- 4 (4) each contraction interpreted by the applicant as
5 two words;
- 6 (5) two words interpreted by the applicant as a
7 contraction;
- 8 (6) each misplaced word;
- 9 (7) each misplaced period that materially alters the
10 sense of a group of words or a sentence;
- 11 (8) each misspelled word;
- 12 (9) the use of the plural or singular if the opposite
13 was dictated; and
- 14 (10) each wrong number.

15 (c) Part B consists of objective questions relating to
16 elementary aspects of shorthand reporting, spelling, and grammar.
17 The minimum passing grade for Part B is 75 percent. A dictionary
18 may not be used during Part B.

19 (d) An applicant who cheats on the examination is
20 disqualified and may not take the examination again until two years
21 have elapsed from the date of the examination at which the applicant
22 was disqualified.

23 ~~[Sec. 52.0231. EXAMINATION RESULTS. (a) Not later than the~~
24 ~~30th day after the date a person takes an examination under this~~
25 ~~chapter, the board shall notify the person of the results of the~~
26 ~~examination.~~

27 ~~[(b) If the examination is graded or reviewed by a testing~~

1 service:

2 ~~[(1) the board shall notify the person of the results~~
3 ~~of the examination not later than the 30th day after the date the~~
4 ~~board receives the results from the testing service; and~~

5 ~~[(2) if notice of the examination results will be~~
6 ~~delayed for longer than 90 days after the examination date, the~~
7 ~~board shall notify the person of the reason for the delay before the~~
8 ~~90th day.~~

9 ~~[(c) The board may require a testing service to notify a~~
10 ~~person of the results of the person's examination.~~

11 ~~[(d) If requested in writing by a person who fails an~~
12 ~~examination administered under this chapter, the board shall~~
13 ~~furnish the person with an analysis of the person's performance on~~
14 ~~the examination.]~~

15 Sec. 154.104 [~~52.024~~]. CERTIFICATION TO SUPREME COURT.

16 [~~(a)~~] The commission [~~board~~] shall certify to the supreme court the
17 name of each qualified applicant who has passed the examination.

18 [~~Sec. 52.0241. RECIPROCAL CERTIFICATION OR CERTIFICATION~~
19 ~~BY ENDORSEMENT. (a) The board may waive any prerequisite to~~
20 ~~certification for an applicant after reviewing the applicant's~~
21 ~~credentials and determining that the applicant holds a license or~~
22 ~~certification issued by another jurisdiction that has licensing or~~
23 ~~certification requirements substantially equivalent to those of~~
24 ~~this state.~~

25 [~~(b) The board may waive any prerequisite to certification~~
26 ~~for an applicant who holds a license or certification issued by~~
27 ~~another jurisdiction with which this state has a reciprocity~~

1 ~~agreement. The board may make an agreement, subject to the approval~~
2 ~~of the supreme court, with another state to allow for certification~~
3 ~~by reciprocity.]~~

4 Sec. 154.105 [~~52.025~~]. TITLE; OATHS. (a) On certification,
5 a shorthand reporter may use the title "Certified Shorthand
6 Reporter" or the abbreviation "CSR."

7 (b) A certified shorthand reporter may administer oaths to
8 witnesses anywhere in this state.

9 Sec. 154.106 [~~52.0255~~]. FIRM REGISTRATION. (a) A
10 shorthand reporting firm may not assume or use the title or
11 designation "court recording firm," "court reporting firm," or
12 "shorthand reporting firm" or any abbreviation, title,
13 designation, words, letters, sign, card, or device tending to
14 indicate that the firm is a court reporting firm or shorthand
15 reporting firm, or offer services as a court reporting firm or
16 shorthand reporting firm, unless the firm and its affiliate offices
17 are registered with the commission [~~board~~] on a form prescribed by
18 the commission [~~board~~] as required by this chapter.

19 (b) The commission [~~board~~] may enforce this section against
20 a firm, its affiliate office, or both, if the firm or affiliate
21 office is not registered with the commission [~~board~~], by seeking an
22 injunction or by filing a complaint in the district court of the
23 county in which the firm or affiliate office is located or in Travis
24 County. An action for an injunction is in addition to any other
25 action, proceeding, or remedy authorized by law. The attorney
26 general, a county or district attorney of this state, or counsel
27 designated and empowered by the commission [~~board~~] shall represent

1 the commission [~~board~~].

2 Sec. 154.107 [~~52.026~~]. CERTIFICATION AND REGISTRATION FEE
3 AND RENEWAL. (a) A person who receives certification as a
4 shorthand reporter or a shorthand reporting firm or affiliate
5 office that registers with the commission [~~board~~] must pay the
6 initial fee and any other required fee before receiving the
7 certification or registration.

8 (b) A certification or registration expires at 12:01 a.m. on
9 January 1 following the second anniversary of the date on which it
10 was issued unless the certification or registration is renewed.
11 Thereafter, the certification or registration expires at 12:01 a.m.
12 of each second January 1 unless renewed.

13 (c) A person who is otherwise eligible to renew a
14 certification or registration may renew an unexpired certification
15 or registration by paying the required renewal fee to the
16 commission [~~board~~] before the expiration date of the certification
17 or registration. A person whose certification or registration has
18 expired may not engage in activities that require a certification
19 or registration until the certification or registration has been
20 renewed.

21 (d) A person whose certification or registration has been
22 expired for 90 days or less may renew the certification or
23 registration by paying to the commission [~~board~~] a renewal fee that
24 is equal to 1-1/2 times the normally required renewal fee.

25 (e) A person whose certification or registration has been
26 expired for more than 90 days but less than one year may renew the
27 certification or registration by paying to the commission [~~board~~] a

1 renewal fee that is equal to two times the normally required renewal
2 fee.

3 (f) A person whose certification or registration has been
4 expired for one year or more may not renew the certification or
5 registration. The person may obtain a new certification or
6 registration by complying with the requirements and procedures,
7 including the examination requirements, for obtaining an original
8 certification or registration.

9 (g) A person who was certified in this state, moved to
10 another state, and is currently certified and has been in practice
11 in the other state for the two years preceding the date of
12 application may obtain a new certification without reexamination.
13 The person must pay to the commission [~~board~~] a fee that is equal to
14 two times the normally required renewal fee for the certification.

15 (h) Not later than the 30th day before the date a person's
16 certification or registration is scheduled to expire, the
17 commission [~~board~~] shall send written notice of the impending
18 expiration to the person at the person's last known address
19 according to the records of the board.

20 Sec. 154.108 [~~52.0261~~]. STAGGERED RENEWAL OF CERTIFICATION
21 OR REGISTRATION. The supreme court by rule may adopt a system under
22 which certifications or registrations expire on various dates
23 during the year. For the year in which the certification or
24 registration expiration date is changed, the commission [~~board~~]
25 shall prorate certification or registration fees on a monthly basis
26 so that each certification or registration holder pays only that
27 portion of the certification or registration fee that is allocable

1 to the number of months during which the certification or
2 registration is valid. On renewal of the certification or
3 registration on the new expiration date, the total certification or
4 registration renewal fee is payable.

5 Sec. 154.109 [~~52.027~~]. COMPLAINT. (a) To file a complaint
6 against a certified shorthand reporter or a shorthand reporting
7 firm or affiliate office registered with the commission [~~board~~], a
8 person must:

- 9 (1) have personal knowledge of the alleged violation;
- 10 (2) complete a complaint form provided by the board;
- 11 (3) sign the completed form; and
- 12 (4) attach any pertinent documentary evidence to the
13 form.

14 (b) On receipt of a properly executed complaint, the
15 commission [~~board~~] shall furnish a copy of the complaint and any
16 attachments to the shorthand reporter or shorthand reporting firm
17 or affiliate office that is the subject of the complaint.

18 (c) This section does not preclude the commission [~~board~~] or
19 a court of this state from filing a complaint against a certified
20 shorthand reporter or a shorthand reporting firm.

21 [~~Sec. 52.0271. COMPLAINT DISMISSAL. (a) The board may~~
22 ~~adopt a policy allowing board employees to dismiss complaints that:~~

23 [~~(1) clearly do not allege misconduct, or~~

24 [~~(2) are not within the board's jurisdiction.~~

25 [~~(b) Board employees shall inform the board of all~~
26 ~~dismissals made under this section.~~

27 [~~(c) A person who files a complaint that is dismissed under~~

1 ~~this section may request that the board reconsider the complaint.~~

2 ~~[Sec. 52.028. NOTICE AND HEARING. (a) If after receiving a~~
3 ~~verified complaint the board believes that a hearing on the~~
4 ~~complaint is advisable, the board shall set a date for the hearing~~
5 ~~not later than the 30th day after the date on which the board~~
6 ~~received the complaint.~~

7 ~~[(b) Immediately after setting the date for the hearing, the~~
8 ~~board shall notify the shorthand reporter or shorthand reporting~~
9 ~~firm or affiliate office that is the subject of the complaint. The~~
10 ~~notice must state the cause of any contemplated disciplinary action~~
11 ~~and the time and place of the hearing. The notice shall be mailed to~~
12 ~~the registered address of the shorthand reporter or shorthand~~
13 ~~reporting firm or affiliate office not later than the 30th day~~
14 ~~before the date on which the hearing is scheduled.~~

15 ~~[(c) The chairman or the chairman's designee shall preside~~
16 ~~at the hearing.~~

17 ~~[(d) At the hearing, the board shall apply the general rules~~
18 ~~of evidence applicable in a district court.~~

19 ~~[(e) The board shall rule on requests for continuances with~~
20 ~~regard to the hearing.~~

21 ~~[(f) At the direction of a majority of the board, each board~~
22 ~~member may administer oaths, subpoena witnesses and compel their~~
23 ~~attendance, take evidence, and require the production of records~~
24 ~~relating to a matter within the board's jurisdiction.~~

25 ~~[(g) The board shall produce a written summary of the~~
26 ~~evidence before it and a written finding of facts. The board shall~~
27 ~~forward a copy of its findings of fact and rulings to the~~

1 ~~complainant and any aggrieved party.]~~

2 Sec. 154.110 [~~52.029~~]. DISCIPLINARY ACTIONS AGAINST COURT
3 REPORTERS. (a) After receiving a complaint and giving the
4 certified shorthand reporter notice and an opportunity for a
5 hearing as prescribed by Chapter 153 [~~Section 52.028~~], the
6 commission [~~board~~] shall revoke, suspend, or refuse to renew the
7 shorthand reporter's certification or issue a reprimand to the
8 reporter for:

9 (1) fraud or corruption;

10 (2) dishonesty;

11 (3) wilful or negligent violation or failure of duty;

12 (4) incompetence;

13 (5) fraud or misrepresentation in obtaining
14 certification;

15 (6) a final conviction of a felony or misdemeanor that
16 directly relates to the duties and responsibilities of a certified
17 court reporter, as determined by supreme court rules [~~adopted under~~
18 ~~Section 52.0211~~];

19 (7) engaging in the practice of shorthand reporting
20 using a method for which the reporter is not certified;

21 (8) engaging in the practice of shorthand reporting
22 while certification is suspended;

23 (9) unprofessional conduct, including giving directly
24 or indirectly, benefiting from, or being employed as a result of any
25 gift, incentive, reward, or anything of value to attorneys,
26 clients, or their representatives or agents, except for nominal
27 items that do not exceed \$100 in the aggregate for each recipient

1 each year;

2 (10) entering into or providing services under a
3 prohibited contract described by Section 154.115 [~~52.034~~];

4 (11) committing any other act that violates this
5 chapter or a rule or provision of the code of ethics adopted under
6 this chapter; or

7 (12) other sufficient cause.

8 (b) The commission [~~board~~] may suspend the certification:

9 (1) for a designated period of time not to exceed 12
10 months;

11 (2) until the person corrects the deficiencies that
12 were the grounds for the suspension; or

13 (3) until the person complies with any conditions
14 imposed by the commission [~~board~~] to ensure the person's future
15 performance as a shorthand reporter.

16 (c) A suspended shorthand reporter may apply for
17 reinstatement by presenting proof that:

18 (1) the designated time has expired;

19 (2) the person has corrected the deficiencies; or

20 (3) the person has complied with the conditions
21 imposed by the commission [~~board~~].

22 (d) On its own motion, the commission [~~board~~] may conduct a
23 hearing to inquire into a suspension. If the commission [~~board~~]
24 finds that a person has not corrected the deficiencies that were the
25 grounds of the suspension or has not complied with the conditions
26 imposed by the commission [~~board~~], the commission [~~board~~] may
27 revoke the person's certification.

1 (e) The supreme court may authorize and the commission
2 [~~board~~] may adopt rules relating to the nonrenewal of the
3 certification of a court reporter who is in default on a loan
4 guaranteed under Chapter 57, Education Code, by the Texas
5 Guaranteed Student Loan Corporation.

6 (f) The commission [~~board~~] may place on probation a person
7 whose certification is suspended. If a certification suspension is
8 probated, the commission [~~board~~] may require the person to:

9 (1) report regularly to the commission [~~board~~] on
10 matters that are the basis of the probation;

11 (2) limit practice to the areas prescribed by the
12 commission [~~board~~]; or

13 (3) continue or review professional education until
14 the person attains a degree of skill satisfactory to the commission
15 [~~board~~] in those areas that are the basis of the probation.

16 Sec. 154.111 [~~52.0295~~]. DISCIPLINARY ACTIONS AGAINST
17 FIRMS. (a) After receiving a complaint and giving the shorthand
18 reporting firm or affiliate office notice and an opportunity for a
19 hearing as prescribed by supreme court rules [~~Section 52.028~~], the
20 commission [~~board~~] shall reprimand, assess a reasonable fine
21 against, or suspend, revoke, or refuse to renew the registration of
22 a shorthand reporting firm or affiliate office for:

23 (1) fraud or corruption;

24 (2) dishonesty;

25 (3) conduct on the part of an officer, director, or
26 managerial employee of the shorthand reporting firm or affiliate
27 office if the officer, director, or managerial employee orders,

1 encourages, or permits conduct that the officer, director, or
2 managerial employee knows or should have known violates this
3 chapter;

4 (4) conduct on the part of an officer, director, or
5 managerial employee or agent of the shorthand reporting firm or
6 affiliate office who has direct supervisory authority over a person
7 for whom the officer, director, employee, or agent knows or should
8 have known violated this chapter and knowingly fails to take
9 reasonable remedial action to avoid or mitigate the consequences of
10 the person's actions;

11 (5) fraud or misrepresentation in obtaining
12 registration;

13 (6) a final conviction of an officer, director, or
14 managerial employee of a shorthand reporting firm or affiliate
15 office for a felony or misdemeanor that is directly related to the
16 provision of court reporting services, as determined by supreme
17 court rules [~~adopted under Section 52.0211~~];

18 (7) engaging the services of a reporter that the
19 shorthand reporting firm or affiliate office knew or should have
20 known was using a method for which the reporter is not certified;

21 (8) knowingly providing court reporting services
22 while the shorthand reporting firm's or affiliate office's
23 registration is suspended or engaging the services of a shorthand
24 reporter whose certification the shorthand reporting firm or
25 affiliate office knew or should have known was suspended;

26 (9) unprofessional conduct, including a pattern of
27 giving directly or indirectly or benefiting from or being employed

1 as a result of giving any gift, incentive, reward, or anything of
2 value to attorneys, clients, or their representatives or agents,
3 except for nominal items that do not exceed \$100 in the aggregate
4 for each recipient each year;

5 (10) entering into or providing services under a
6 prohibited contract described by Section 154.115 [~~52.034~~];

7 (11) committing any other act that violates this
8 chapter or a rule or provision of the code of ethics adopted under
9 this chapter; or

10 (12) other sufficient cause.

11 (b) Nothing in Subsection (a)(9) shall be construed to
12 define providing value-added business services, including
13 long-term volume discounts, such as the pricing of products and
14 services, as prohibited gifts, incentives, or rewards.

15 (c) The commission [~~board~~] may suspend the registration of a
16 shorthand reporting firm or affiliate office:

17 (1) for a designated period of time;

18 (2) until the shorthand reporting firm or affiliate
19 office corrects the deficiencies that were the grounds for the
20 suspension; or

21 (3) until the shorthand reporting firm or affiliate
22 office complies with any conditions imposed by the commission
23 [~~board~~] to ensure the shorthand reporting firm's or affiliate
24 office's future performance.

25 (d) A shorthand reporting firm or affiliate office whose
26 registration is suspended may apply for reinstatement by presenting
27 proof that:

1 (1) the designated time has expired;

2 (2) the shorthand reporting firm or affiliate office
3 has corrected the deficiencies; or

4 (3) the shorthand reporting firm or affiliate office
5 has complied with the conditions imposed by the commission [~~board~~].

6 (e) On its own motion, the commission [~~board~~] may conduct a
7 hearing to inquire into a suspension. If the commission [~~board~~]
8 finds that a shorthand reporting firm or affiliate office has not
9 corrected the deficiencies that were the grounds for the suspension
10 or has not complied with the conditions imposed by the commission
11 [~~board~~], the commission [~~board~~] may revoke the registration of the
12 shorthand reporting firm or affiliate office.

13 (f) The commission [~~board~~] may place on probation a
14 shorthand reporting firm or affiliate office whose registration is
15 suspended. If a registration suspension is probated, the
16 commission [~~board~~] may require the firm or office to:

17 (1) report regularly to the commission [~~board~~] on
18 matters that are the basis of the probation;

19 (2) limit practice to the areas prescribed by the
20 commission [~~board~~]; or

21 (3) through its officers, directors, managerial
22 employees, or agents, continue or review professional education
23 until those persons attain a degree of skill satisfactory to the
24 commission [~~board~~] in those areas that are the basis of the
25 probation.

26 [~~Sec. 52.030. APPEAL OF DISCIPLINARY ACTION. An aggrieved~~
27 ~~court reporter or shorthand reporting firm or affiliate office may~~

1 ~~appeal a disciplinary action of the board to a district court in the~~
2 ~~county of the court reporter's residence or the county in which the~~
3 ~~shorthand reporting firm or affiliate office is located or in~~
4 ~~Travis County. The appeal shall be by trial de novo, with or~~
5 ~~without a jury. If the aggrieved person is the official or deputy~~
6 ~~court reporter of the court in which the appeal will be heard or if~~
7 ~~the shorthand reporting firm or affiliate office provides the~~
8 ~~official or deputy court reporter of the court in which the appeal~~
9 ~~will be heard, the presiding judge of the administrative judicial~~
10 ~~region shall appoint the judge of another court or a retired judge~~
11 ~~to hear and determine the complaint.]~~

12 Sec. 154.112 [~~52.031~~]. EMPLOYMENT OF NONCERTIFIED
13 SHORTHAND REPORTERS. (a) A noncertified shorthand reporter may be
14 employed until a certified shorthand reporter is available.

15 (b) A noncertified shorthand reporter may report an oral
16 deposition only if:

17 (1) the noncertified shorthand reporter delivers an
18 affidavit to the parties or to their counsel present at the
19 deposition stating that a certified shorthand reporter is not
20 available; or

21 (2) the parties or their counsel stipulate on the
22 record at the beginning of the deposition that a certified
23 shorthand reporter is not available.

24 (c) This section does not apply to a deposition taken
25 outside this state for use in this state.

26 Sec. 154.113 [~~52.032~~]. CRIMINAL PENALTY. (a) Except as
27 provided by Section 154.112 [~~52.031~~], a person commits an offense

1 if the person engages in shorthand reporting in violation of
2 Section 154.101 [~~52.021 of this code~~]. Each day of violation
3 constitutes a separate offense.

4 (b) An offense under this section is a Class A misdemeanor.

5 [~~Sec. 52.0321. ADMINISTRATIVE PENALTY. (a) The board may~~
6 ~~assess an administrative penalty against a person who violates this~~
7 ~~chapter or a rule or provision of the code of ethics adopted under~~
8 ~~this chapter.~~

9 [~~(b) In determining the amount of an administrative penalty~~
10 ~~assessed under this section, the board shall consider:~~

11 [~~(1) the seriousness of the violation;~~

12 [~~(2) the history of previous violations;~~

13 [~~(3) the amount necessary to deter future violations;~~

14 [~~(4) efforts made to correct the violation; and~~

15 [~~(5) any other matters that justice may require.]~~

16 Sec. 154.114 [~~52.033~~]. EXEMPTIONS. This chapter does not
17 apply to:

18 (1) a party to the litigation involved;

19 (2) the attorney of the party; or

20 (3) a full-time employee of a party or a party's
21 attorney.

22 Sec. 154.115 [~~52.034~~]. PROHIBITED CONTRACTS. (a) A court
23 reporter may not enter into or provide services under any
24 contractual agreement, written or oral, exclusive or nonexclusive,
25 that:

26 (1) undermines the impartiality of the court reporter;

27 (2) requires a court reporter to relinquish control of

1 an original deposition transcript and copies of the transcript
2 before it is certified and delivered to the custodial attorney;

3 (3) requires a court reporter to provide any service
4 not made available to all parties to an action; or

5 (4) gives or appears to give an exclusive advantage to
6 any party.

7 (b) This section does not apply to a contract for court
8 reporting services for a court, agency, or instrumentality of the
9 United States or this state.

10 SECTION 1.05. Chapter 111, Government Code, is transferred
11 to Subtitle K, Title 2, Government Code, as added by this Act,
12 redesignated as Chapter 155, Government Code, and amended to read
13 as follows:

14 CHAPTER 155 [~~111~~]. GUARDIANSHIP CERTIFICATION [~~BOARD~~]

15 SUBCHAPTER A. GENERAL PROVISIONS

16 Sec. 155.001 [~~111.001~~]. DEFINITIONS. In this chapter:

17 (1) "Advisory board" [~~"Administrative director"~~] means
18 ~~the administrative director of the courts as appointed by Chapter~~
19 ~~72.~~

20 [~~(2) "Board"~~] means the Guardianship Certification
21 Advisory Board.

22 (2) [~~(3)~~] "Corporate fiduciary" has the meaning
23 assigned by Section 601, Texas Probate Code.

24 (3) [~~(4) "Director"~~] means ~~the administrative officer~~
25 ~~of the board, as provided by Section 111.021.~~

26 [~~(5)~~] "Guardian" has the meaning assigned by Section
27 601, Texas Probate Code.

1 (4) [~~(6)~~] "Guardianship program" means a local,
2 county, or regional program that provides guardianship and related
3 services to an incapacitated person or other person who needs
4 assistance in making decisions concerning the person's own welfare
5 or financial affairs.

6 (5) [~~(7)~~] "Incapacitated person" has the meaning
7 assigned by Section 601, Texas Probate Code.

8 (6) [~~(8)~~] "~~Office of Court Administration~~" means the
9 ~~Office of Court Administration of the Texas Judicial System.~~

10 ~~[(9)]~~ "Private professional guardian" means a person,
11 other than an attorney or a corporate fiduciary, who is engaged in
12 the business of providing guardianship services.

13 (7) [~~(10)~~] "Ward" has the meaning assigned by Section
14 601, Texas Probate Code.

15 Sec. 155.002 [~~111.002~~]. RULES. The supreme court may adopt
16 rules consistent with this chapter, including rules governing the
17 certification of individuals providing guardianship services.

18 ~~[Sec. 111.003. SUNSET PROVISION. The board is subject to~~
19 ~~Chapter 325, Government Code (Texas Sunset Act). Unless continued~~
20 ~~in existence as provided by that chapter, the board is abolished and~~
21 ~~this chapter expires September 1, 2015.]~~

22 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

23 Sec. 155.051 [~~111.011~~]. ADVISORY BOARD. (a) The
24 Guardianship Certification Advisory Board is established as an
25 advisory board to the commission. The advisory board is composed of
26 at least five members appointed by the supreme court[~~+~~

27 ~~[(1) 11 members appointed by the supreme court, and~~

1 ~~[(2) four public members appointed by the supreme~~
2 ~~court from a list of nominees submitted by the governor].~~

3 (b) ~~[The supreme court shall appoint members under~~
4 ~~Subsection (a)(1) from the different geographical areas of this~~
5 ~~state.~~

6 ~~[(c) In making an appointment under Subsection (a)(2), the~~
7 ~~supreme court may reject one or more of the nominees on a list~~
8 ~~submitted by the governor and request a new list of different~~
9 ~~nominees.~~

10 ~~[(d) To be eligible for appointment to the board other than~~
11 ~~as a public member, an individual must have demonstrated experience~~
12 ~~working with:~~

13 ~~[(1) a guardianship program,~~

14 ~~[(2) an organization that advocates on behalf of or in~~
15 ~~the interest of elderly individuals,~~

16 ~~[(3) an organization that advocates on behalf of or in~~
17 ~~the interest of individuals with mental illness or mental~~
18 ~~retardation or individuals with physical disabilities, or~~

19 ~~[(4) incapacitated individuals.~~

20 ~~[(e) The public members of the board must be:~~

21 ~~[(1) caretakers of individuals with mental illness or~~
22 ~~mental retardation or individuals with physical disabilities, or~~

23 ~~[(2) persons who advocate on behalf of or in the~~
24 ~~interest of individuals with mental illness or mental retardation~~
25 ~~or individuals with physical disabilities.~~

26 ~~[(f)]~~ Appointments to the advisory board shall be made
27 without regard to the race, color, disability, sex, religion, age,

1 or national origin of the appointees.

2 (c) The supreme court shall appoint a presiding officer of
3 the advisory board from among its members to serve for two years.

4 (d) A majority of the advisory board constitutes a quorum.

5 (e) Advisory board [~~(g) The~~] members [~~of the board~~] serve
6 for staggered six-year terms, with the terms of one-third of the
7 members expiring on February 1 of each odd-numbered year. Advisory
8 board [~~Board~~] members serve without compensation but are entitled
9 to reimbursement for travel expenses and other actual and necessary
10 expenses incurred in the performance of official board duties, as
11 provided by the General Appropriations Act.

12 [~~(h) The board shall elect from among its members a~~
13 ~~presiding officer and other officers considered necessary.~~

14 [~~(i) The board shall meet at least quarterly at the call of~~
15 ~~the presiding officer.~~

16 [~~(j) Any action taken by the board must be approved by a~~
17 ~~majority vote of the members present.~~

18 [~~Sec. 111.012. ADMINISTRATIVE ATTACHMENT. (a) The board is~~
19 ~~administratively attached to the Office of Court Administration.~~

20 [~~(b) Notwithstanding any other law, the Office of Court~~
21 ~~Administration shall:~~

22 [~~(1) provide administrative assistance, services, and~~
23 ~~materials to the board, including budget planning and purchasing,~~

24 [~~(2) accept, deposit, and disburse money made~~
25 ~~available to the board,~~

26 [~~(3) pay the salaries and benefits of the director,~~

27 [~~(4) reimburse the travel expenses and other actual~~

1 ~~and necessary expenses of the director incurred in the performance~~
2 ~~of a function of the board, as provided by the General~~
3 ~~Appropriations Act;~~

4 ~~[(5) reimburse the travel expenses and other actual~~
5 ~~and necessary expenses of board members incurred in the performance~~
6 ~~of official board duties, as provided by the General Appropriations~~
7 ~~Act; and~~

8 ~~[(6) provide the board with adequate computer~~
9 ~~equipment and support.~~

10 ~~[Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. A person is~~
11 ~~not eligible for appointment as a public member of the board if the~~
12 ~~person or the person's spouse:~~

13 ~~[(1) is certified by the board;~~

14 ~~[(2) is registered, certified, or licensed by a~~
15 ~~regulatory agency in the field of guardianship;~~

16 ~~[(3) is employed by or participates in the management~~
17 ~~of a business entity or other organization regulated by the board or~~
18 ~~receiving money from the Office of Court Administration;~~

19 ~~[(4) owns or controls, directly or indirectly, more~~
20 ~~than a 10 percent interest in a business entity or other~~
21 ~~organization regulated by the board or receiving money from the~~
22 ~~Office of Court Administration; or~~

23 ~~[(5) uses or receives a substantial amount of tangible~~
24 ~~goods, services, or funds from the Office of Court Administration.~~

25 ~~[Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)~~

26 ~~In this section, "Texas trade association" means a cooperative and~~
27 ~~voluntarily joined statewide association of business or~~

1 ~~professional competitors in this state designed to assist its~~
2 ~~members and its industry or profession in dealing with mutual~~
3 ~~business or professional problems and in promoting their common~~
4 ~~interest.~~

5 ~~[(b) A person may not be a member of the board or may not be~~
6 ~~the director in a "bona fide executive, administrative, or~~
7 ~~professional capacity," as that phrase is used for purposes of~~
8 ~~establishing an exemption to the overtime provisions of the federal~~
9 ~~Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),~~
10 ~~if:~~

11 ~~[(1) the person is an officer, employee, or paid~~
12 ~~consultant of a Texas trade association in the field of~~
13 ~~guardianship; or~~

14 ~~[(2) the person's spouse is an officer, manager, or~~
15 ~~paid consultant of a Texas trade association in the field of~~
16 ~~guardianship.~~

17 ~~[(c) A person may not be a member of the board if the person~~
18 ~~is required to register as a lobbyist under Chapter 305 because of~~
19 ~~the person's activities for compensation on behalf of a profession~~
20 ~~related to the operation of the board.~~

21 ~~[Sec. 111.015. GROUND FOR REMOVAL FROM BOARD. (a) It is a~~
22 ~~ground for removal from the board that a member:~~

23 ~~[(1) does not have at the time of appointment the~~
24 ~~qualifications required by Section 111.011;~~

25 ~~[(2) does not maintain during service on the board the~~
26 ~~qualifications required by Section 111.011;~~

27 ~~[(3) is ineligible for membership under Section~~

1 ~~111.013 or 111.014,~~

2 ~~[(4) cannot, because of illness or disability,~~
3 ~~discharge the member's duties for a substantial part of the member's~~
4 ~~term; or~~

5 ~~[(5) is absent from more than half of the regularly~~
6 ~~scheduled board meetings that the member is eligible to attend~~
7 ~~during a calendar year without an excuse approved by a majority vote~~
8 ~~of the board.~~

9 ~~[(b) The validity of an action of the board is not affected~~
10 ~~by the fact that it is taken when a ground for removal of a board~~
11 ~~member exists.~~

12 ~~[(c) If the director has knowledge that a potential ground~~
13 ~~for removal exists, the director shall notify the presiding officer~~
14 ~~of the board of the potential ground. The presiding officer shall~~
15 ~~then notify the chief justice of the supreme court that a potential~~
16 ~~ground for removal exists. If the potential ground for removal~~
17 ~~involves the presiding officer, the director shall notify the next~~
18 ~~highest ranking officer of the board, who shall then notify the~~
19 ~~chief justice of the supreme court that a potential ground for~~
20 ~~removal exists.~~

21 ~~[Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) The board~~
22 ~~is charged with the executive functions necessary to carry out the~~
23 ~~purposes of this chapter under rules adopted by the supreme court.~~

24 ~~[(b) The board shall:~~

25 ~~[(1) administer and enforce this chapter,~~

26 ~~[(2) develop and recommend proposed rules and~~
27 ~~procedures to the supreme court as necessary to implement this~~

1 ~~chapter,~~

2 ~~[(3) set the amount of each fee prescribed by Section~~
3 ~~111.042, subject to the approval of the supreme court,~~

4 ~~[(4) establish the qualifications for obtaining:~~

5 ~~[(A) certification or recertification under~~
6 ~~Section 111.042; and~~

7 ~~[(B) provisional certification under Section~~
8 ~~111.0421;~~

9 ~~[(5) issue certificates to:~~

10 ~~[(A) individuals who meet the certification~~
11 ~~requirements of Section 111.042; and~~

12 ~~[(B) individuals who meet the provisional~~
13 ~~certification requirements of Section 111.0421; and~~

14 ~~[(6) perform any other duty required by this chapter~~
15 ~~or other law.~~

16 ~~[(c) The board may appoint any necessary or proper~~
17 ~~subcommittee.~~

18 ~~[(d) The board shall maintain:~~

19 ~~[(1) a complete record of each board proceeding; and~~

20 ~~[(2) a complete record of each certification,~~
21 ~~including a provisional certificate, issued, renewed, suspended,~~
22 ~~or revoked under this chapter.]~~

23 Sec. 155.052 [~~111.017~~]. TRAINING. (a) A person who is
24 appointed to and qualifies for office as a member of the advisory
25 board may not vote, deliberate, or be counted as a member in
26 attendance at a meeting of the advisory board until the person
27 completes a training program that complies with this section.

1 (b) The training program must provide the person with
2 information regarding:

3 (1) this chapter;

4 (2) the role and functions of the advisory board;

5 (3) the current budget for the advisory board;

6 (4) the results of the most recent formal audit of the
7 advisory board; and

8 (5) any applicable ethics policies adopted by the
9 advisory board.

10 ~~[Sec. 111.018. USE OF TECHNOLOGY. The Office of Court~~
11 ~~Administration shall research and propose appropriate~~
12 ~~technological solutions to improve the board's ability to perform~~
13 ~~its functions. The technological solutions must:~~

14 ~~[(1) ensure that the public is able to easily find~~
15 ~~information about the board on the Internet;~~

16 ~~[(2) ensure that persons who want to use the board's~~
17 ~~services are able to:~~

18 ~~[(A) interact with the board through the~~
19 ~~Internet; and~~

20 ~~[(B) access any service that can be provided~~
21 ~~effectively through the Internet; and~~

22 ~~[(3) be cost-effective and developed through the~~
23 ~~board's planning processes.~~

24 ~~[Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.~~

25 ~~(a) The board shall develop and implement a policy to encourage the~~
26 ~~use of appropriate alternative dispute resolution procedures to~~
27 ~~assist in the resolution of internal and external disputes under~~

1 ~~the board's jurisdiction.~~

2 ~~[(b) The procedures relating to alternative dispute~~
3 ~~resolution under this section must conform, to the extent possible,~~
4 ~~to any model guidelines issued by the State Office of~~
5 ~~Administrative Hearings for the use of alternative dispute~~
6 ~~resolution by state agencies.~~

7 ~~[Sec. 111.020. PUBLIC ACCESS. The board shall develop and~~
8 ~~implement policies that provide the public with a reasonable~~
9 ~~opportunity to appear before the board and to speak on any issue~~
10 ~~under the jurisdiction of the board.~~

11 ~~[Sec. 111.021. DIRECTOR. (a) The administrative director~~
12 ~~shall employ a director from a list of candidates submitted by the~~
13 ~~board. The administrative director may request an additional list~~
14 ~~of candidates if the administrative director does not select any of~~
15 ~~the initial candidates recommended by the board.~~

16 ~~[(b) The list may contain the hiring preference of the~~
17 ~~board.~~

18 ~~[(c) The director is the administrative officer of the board~~
19 ~~and is charged with carrying out the duties and functions conferred~~
20 ~~on the director by the board, this subchapter, and other law.~~

21 ~~[Sec. 111.022. DIVISION OF RESPONSIBILITIES. The board~~
22 ~~shall develop and implement policies that clearly separate the~~
23 ~~policy-making responsibilities of the board and the management~~
24 ~~responsibilities of the director.~~

25 ~~[Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT~~
26 ~~INFORMATION. The director shall provide to members of the board, as~~
27 ~~often as necessary, information regarding the requirements for~~

1 ~~office under this chapter, including information regarding a~~
2 ~~person's responsibilities under applicable laws relating to~~
3 ~~standards of conduct for state officers.]~~

4 SUBCHAPTER C. REGULATION OF CERTAIN GUARDIANS

5 Sec. 155.101 [~~111.041~~]. STANDARDS FOR CERTAIN
6 GUARDIANSHIPS AND ALTERNATIVES TO GUARDIANSHIP. (a) The
7 commission [~~board~~] shall adopt minimum standards for:

8 (1) the provision of guardianship services or other
9 similar but less restrictive types of assistance or services by:

10 (A) guardianship programs; and

11 (B) private professional guardians; and

12 (2) the provision of guardianship services by the
13 Department of Aging and Disability Services.

14 (b) The commission [~~board~~] shall design the standards to
15 protect the interests of an incapacitated person or other person
16 needing assistance making decisions concerning the person's own
17 welfare or financial affairs.

18 Sec. 155.102 [~~111.042~~]. CERTIFICATION REQUIRED FOR CERTAIN
19 GUARDIANS. (a) To provide guardianship services in this state, the
20 following individuals must hold a certificate issued under this
21 section:

22 (1) an individual who is a private professional
23 guardian;

24 (2) an individual who will provide those services to a
25 ward of a private professional guardian on the guardian's behalf;
26 and

27 (3) an individual, other than a volunteer, who will

1 provide those services or other services under Section 161.114,
2 Human Resources Code, to a ward of a guardianship program or the
3 Department of Aging and Disability Services on the program's or
4 department's behalf.

5 (b) An applicant for a certificate under this section must:

6 (1) apply to the commission [~~board~~] on a form
7 prescribed by the commission [~~board~~]; and

8 (2) submit with the application a nonrefundable
9 application fee in an amount determined by the commission [~~board~~],
10 subject to the approval of the supreme court.

11 (c) The supreme court may adopt rules and procedures for
12 issuing a certificate and for renewing, suspending, or revoking a
13 certificate issued under this section. Any rules adopted by the
14 supreme court under this section must:

15 (1) ensure compliance with the standards adopted under
16 Section 155.101 [~~111.041~~];

17 (2) provide that the commission [~~board~~] establish
18 qualifications for obtaining and maintaining certification;

19 (3) provide that the commission [~~board~~] issue
20 certificates under this section;

21 (4) provide that a certificate expires on the second
22 anniversary of the date the certificate is issued;

23 (5) prescribe procedures for accepting complaints and
24 conducting investigations of alleged violations of the minimum
25 standards adopted under Section 155.101 [~~111.041~~] or other terms of
26 the certification by certificate holders; and

27 (6) prescribe procedures by which the board, after

1 notice and hearing, may suspend or revoke the certificate of a
2 holder who fails to substantially comply with appropriate standards
3 or other terms of the certification.

4 (d) If the requirements for issuing a certificate under this
5 section include passage of an examination covering guardianship
6 education requirements:

7 (1) the commission [~~board~~] shall develop and the
8 director shall administer the examination; or

9 (2) the commission [~~board~~] shall direct the director
10 to contract with another person or entity the commission [~~board~~]
11 determines has the expertise and resources to develop and
12 administer the examination.

13 (e) In lieu of the certification requirements imposed under
14 this section, the commission [~~board~~] may issue a certificate to an
15 individual to engage in business as a guardian or to provide
16 guardianship services in this state if the individual:

17 (1) submits an application to the commission [~~board~~]
18 in the form prescribed by the commission [~~board~~];

19 (2) pays a fee in a reasonable amount determined by the
20 commission [~~board~~], subject to the approval of the supreme court;

21 (3) is certified, registered, or licensed as a
22 guardian by a national organization or association the commission
23 [~~board~~] determines has requirements at least as stringent as those
24 prescribed by the commission [~~board~~] under this subchapter; and

25 (4) is in good standing with the organization or
26 association with whom the person is licensed, certified, or
27 registered.

1 (f) An employee of the Department of Aging and Disability
2 Services who is applying for a certificate under this section to
3 provide guardianship services to a ward of the department is exempt
4 from payment of an application fee required by this section.

5 (g) An application fee or other fee collected under this
6 section shall be deposited to the credit of the guardianship
7 certification account in the general revenue fund and may be
8 appropriated only to the office [~~Office of Court Administration~~]
9 for the administration and enforcement of this chapter.

10 [~~(h) The Texas Department of Licensing and Regulation shall~~
11 ~~advise and assist the board as necessary in administering the~~
12 ~~certification process established under this section.~~]

13 Sec. 155.103 [~~111.0421~~]. PROVISIONAL CERTIFICATE. (a)
14 Notwithstanding Section 155.102(a) [~~111.042(a)~~], the commission
15 [~~board~~] may issue a provisional certificate to an individual who:

16 (1) does not meet the qualifications for obtaining
17 certification under Section 155.102 [~~111.042~~]; and

18 (2) possesses the qualifications for provisional
19 certification required by rules adopted by the supreme court.

20 (b) An individual who holds a provisional certificate may
21 provide guardianship services in this state only under the
22 supervision of an individual certified under Section 155.102
23 [~~111.042~~].

24 (c) The supreme court may adopt rules and procedures for
25 issuing a provisional certificate under this section that, at a
26 minimum, must:

27 (1) ensure compliance with the standards adopted under

1 Section 155.101 [~~111.041~~]; and

2 (2) provide that the commission [~~board~~] establishes
3 qualifications for obtaining and maintaining the certification.

4 Sec. 155.104 [~~111.043~~]. INFORMATION FROM PRIVATE
5 PROFESSIONAL GUARDIANS. In addition to the information submitted
6 under Section 697(e), Texas Probate Code, the director may require
7 a private professional guardian or a person who represents or plans
8 to represent the interests of a ward as a guardian on behalf of the
9 private professional guardian to submit information considered
10 necessary to monitor the person's compliance with the applicable
11 standards adopted under Section 155.101 [~~111.041~~] or with the
12 certification requirements of Section 155.102 [~~111.042~~].

13 Sec. 155.105 [~~111.044~~]. ANNUAL DISCLOSURE. (a) Not later
14 than January 31 of each year, each guardianship program shall
15 provide to the commission [~~board~~] a report containing for the
16 preceding year:

17 (1) the number of wards served by the guardianship
18 program reported by county in which the application to create a
19 guardianship for the ward is filed and the total number of wards
20 served by the guardianship program;

21 (2) the name, business address, and business telephone
22 number of each individual employed by or volunteering or
23 contracting with the guardianship program to provide guardianship
24 services to a ward or proposed ward of the program;

25 (3) the name of each county in which an individual
26 described by Subdivision (2) provides or is authorized to provide
27 guardianship services;

1 (4) the total amount of money received from this state
2 for the provision of guardianship services; and

3 (5) the amount of money received from any other public
4 source, including a county or the federal government, for the
5 provision of guardianship services, reported by source, and the
6 total amount of money received from those public sources.

7 (b) Not later than January 31 of each year, each private
8 professional guardian shall provide to the commission [~~board~~] a
9 report containing for the preceding year:

10 (1) the number of wards served by the private
11 professional guardian reported by county in which the application
12 to create a guardianship for the ward is filed and the total number
13 of wards served by the private professional guardian;

14 (2) the name, business address, and business telephone
15 number of each individual who provides guardianship services to a
16 ward of the private professional guardian on behalf of the private
17 professional guardian;

18 (3) the total amount of money received from this state
19 for the provision of guardianship services; and

20 (4) the amount of money received from any other public
21 source, including a county or the federal government, for the
22 provision of guardianship services, reported by source, and the
23 total amount of money received from those public sources.

24 (c) A private professional guardian shall submit with the
25 report required under Subsection (b) a copy of the guardian's
26 application for a certificate of registration required by Section
27 697(a), Texas Probate Code.

1 SECTION 1.06. Subtitle K, Title 2, Government Code, as
2 added by this Act, is amended by adding Chapter 156, and a heading
3 is added to that chapter to read as follows:

4 CHAPTER 156. PROCESS SERVER CERTIFICATION

5 SECTION 1.07. Section 51.008, Government Code, is
6 transferred to Chapter 156, Government Code, as added by this Act,
7 redesignated as Section 156.001, Government Code, and amended to
8 read as follows:

9 Sec. 156.001 [~~51.008~~]. FEES FOR PROCESS SERVER
10 CERTIFICATION. (a) The commission [~~process server review board~~
11 ~~established by supreme court order~~] may recommend to the supreme
12 court the fees to be charged for process server certification and
13 renewal of certification. The supreme court must approve the fees
14 recommended by the commission [~~process server review board~~] before
15 the fees may be collected.

16 (b) If a certification is issued or renewed for a term that
17 is less than the certification period provided by supreme court
18 rule, the fee for the certification shall be prorated so that the
19 process server pays only that portion of the fee that is allocable
20 to the period during which the certification is valid. On renewal
21 of the certification on the new expiration date, the process server
22 must pay the entire certification renewal fee.

23 (c) The office [~~Office of Court Administration of the Texas~~
24 ~~Judicial System~~] may collect the fees recommended by the commission
25 [~~process server review board~~] and approved by the supreme
26 court. Fees collected under this section shall be sent to the
27 comptroller for deposit to the credit of the general revenue fund.

1 (d) Fees collected under this section may be appropriated to
2 the office [~~Office of Court Administration of the Texas Judicial~~
3 ~~System~~] for the support of regulatory programs for process servers,
4 guardians, and court reporters.

5 SECTION 1.08. Subchapter C, Chapter 57, Government Code, is
6 transferred to Subtitle K, Title 2, Government Code, as added by
7 this Act, redesignated as Chapter 157, Government Code, and amended
8 to read as follows:

9 CHAPTER 157 [~~SUBCHAPTER C~~]. COURT INTERPRETERS LICENSING [~~FOR~~
10 ~~INDIVIDUALS WHO DO NOT COMMUNICATE IN ENGLISH~~]

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 157.001 [~~57.041~~]. DEFINITIONS. In this chapter
13 [~~subchapter~~]:

14 (1) "Advisory board" [~~"Board"~~] means the licensed
15 court interpreter advisory board.

16 (2) [~~"Commission" means the Texas Commission of~~
17 ~~Licensing and Regulation.~~

18 [~~(4) "Department" means the Texas Department of~~
19 ~~Licensing and Regulation.~~

20 [~~(4-a) "Executive director" means the executive~~
21 ~~director of the department.~~

22 [~~(5)~~] "Licensed court interpreter" means an
23 individual licensed under this chapter by the commission to
24 interpret court proceedings for an individual who can hear but who
25 does not comprehend English or communicate in English [~~has the~~
26 ~~meaning assigned by Section 57.001~~].

1 SUBCHAPTER B. LICENSED COURT INTERPRETER ADVISORY BOARD

2 Sec. 157.051 [~~57.042~~]. LICENSED COURT INTERPRETER ADVISORY
3 BOARD. (a) The licensed court interpreter advisory board is
4 established as an advisory board to the commission. The advisory
5 board is composed of nine members appointed by the [~~presiding~~
6 ~~officer of the~~] commission[~~, with the commission's approval~~].
7 Members of the advisory board serve staggered six-year terms, with
8 the terms of one-third of the members expiring on February 1 of each
9 odd-numbered year.

10 (b) The advisory board is composed of:

11 (1) an active district, county, or statutory county
12 court judge who has been a judge for at least the three years
13 preceding the date of appointment;

14 (2) an active court administrator who has been a court
15 administrator for at least the three years preceding the date of
16 appointment;

17 (3) an active attorney who has been a practicing
18 member of the state bar for at least the three years preceding the
19 date of appointment;

20 (4) three active licensed court interpreters; and

21 (5) three public members who are residents of this
22 state.

23 (c) The [~~presiding officer of the~~] commission[~~, with the~~
24 ~~commission's approval~~,] shall select from the advisory board
25 members a presiding officer of the advisory board to serve for two
26 years.

27 (d) Members shall be appointed without regard to race,

1 color, disability, sex, religion, age, or national [~~ethnic~~] origin.
 2 The membership of the advisory board must reflect the geographical
 3 and cultural diversity of the state.

4 (e) The [~~presiding officer of the~~] commission[~~, with the~~
 5 ~~commission's approval,~~] may remove a member of the advisory board
 6 for inefficiency or neglect of duty in office. If a vacancy occurs
 7 on the advisory board, [~~the presiding officer of~~] the commission[~~,~~
 8 ~~with the commission's approval,~~] shall appoint a member who
 9 represents the same interests as the former member to serve the
 10 unexpired term.

11 (f) The advisory board shall meet at least twice a year at
 12 the call of the commission [~~presiding officer at a place designated~~
 13 ~~by the presiding officer~~]. A majority of the advisory board
 14 constitutes a quorum.

15 (g) The advisory board shall advise the commission
 16 regarding the adoption of rules and the design of a licensing
 17 examination.

18 (h) An advisory [~~A~~] board member is entitled to
 19 reimbursement for expenses incurred in attending meetings of the
 20 advisory board in the amount of the per diem set by the General
 21 Appropriations Act. A member may not receive compensation for the
 22 member's services as an advisory [~~a~~] board member. Service on the
 23 advisory board by a member appointed under Subsection (b)(1) is an
 24 additional duty required by the member's other official capacity,
 25 and that service on the advisory board is not a dual office holding.

26 SUBCHAPTER C. LICENSE ISSUANCE

27 Sec. 157.101 [~~57.043~~]. ISSUANCE OF LICENSE; TERM. (a) The

1 ~~[executive]~~ director shall issue a court interpreter license to an
2 applicant who:

3 (1) can interpret for an individual who can hear but
4 who does not comprehend English or communicate in English;

5 (2) passes the appropriate examination prescribed by
6 the commission ~~[executive director]~~ not earlier than two years
7 before the date the ~~[executive]~~ director receives the applicant's
8 application for a license; and

9 (3) possesses the other qualifications for the license
10 required by this chapter ~~[subchapter]~~ or by rules adopted under
11 this chapter ~~[subchapter]~~.

12 (b) The commission shall adopt rules relating to licensing
13 under this chapter. The rules must be approved by the supreme
14 court. The ~~[subchapter and the executive]~~ director shall prescribe
15 all forms required under this chapter ~~[subchapter]~~.

16 (c) A license issued under this chapter ~~[subchapter]~~ is
17 valid for one year from the date of issuance.

18 (d) A license issued under this chapter ~~[subchapter]~~ must
19 include at least one of the following designations:

20 (1) a basic designation that permits the interpreter
21 to interpret court proceedings in justice courts and municipal
22 courts that are not municipal courts of record, other than a
23 proceeding before the court in which the judge is acting as a
24 magistrate; or

25 (2) a master designation that permits the interpreter
26 to interpret court proceedings in all courts in this state,
27 including justice courts and municipal courts described by

1 Subdivision (1).

2 (e) In adopting rules relating to licensing under this
3 subchapter, the commission shall, after consulting with the
4 advisory board, prescribe the minimum score an individual must
5 achieve on an examination to receive a license that includes a basic
6 designation under Subsection (d) and the minimum score an
7 individual must achieve to receive a license that includes a master
8 designation under that subsection.

9 Sec. 157.102 [~~57.044~~]. COURT INTERPRETER LICENSE. To
10 qualify for a court interpreter license under this chapter
11 [~~subchapter~~], an individual must apply on a form prescribed by the
12 commission [~~executive director~~] and demonstrate, in the manner
13 required by the [~~executive~~] director, reasonable proficiency in
14 interpreting English and court proceedings for individuals who can
15 hear but who do not comprehend English or communicate in English.

16 [~~Sec. 57.045. FEES. The commission by rule shall set~~
17 ~~license and examination fees under this subchapter.~~]

18 Sec. 157.103 [~~57.046~~]. EXAMINATIONS. (a) The [~~executive~~]
19 director shall prepare examinations under this chapter
20 [~~subchapter~~] that test an applicant's knowledge, skill, and
21 efficiency in interpreting under this chapter [~~subchapter~~]. The
22 same examinations must be used for issuing a license that includes a
23 basic designation or master designation as described by Section
24 157.101(d) [~~57.043(d)~~].

25 (b) An individual who fails an examination may apply for
26 reexamination at a scheduled examination held at least six months
27 after the date the individual failed the original examination.

1 (c) Examinations shall be offered in the state at least
2 twice a year at times and places designated by the [~~executive~~]
3 director.

4 Sec. 157.104 [~~57.047~~]. COMMISSION [~~DEPARTMENT~~] DUTIES;
5 INSPECTIONS. (a) The commission [~~executive director~~] shall
6 enforce this chapter [~~subchapter~~].

7 (b) The commission [~~department~~] shall investigate
8 allegations of violations of this chapter [~~subchapter~~].

9 Sec. 157.105 [~~57.048~~]. SUSPENSION AND REVOCATION OF
10 LICENSES; REISSUANCE. (a) After a hearing, the commission shall
11 suspend or revoke a court interpreter license on a finding that the
12 individual:

13 (1) made a material misstatement in an application for
14 a license;

15 (2) disregarded or violated this chapter [~~subchapter~~]
16 or a rule adopted under this chapter [~~subchapter~~]; or

17 (3) engaged in dishonorable or unethical conduct
18 likely to deceive, defraud, or harm the public or a person for whom
19 the interpreter interprets.

20 (b) The commission [~~executive director~~] may reissue a
21 license to an individual whose license has been revoked if the
22 individual applies in writing to the department and shows good
23 cause to justify reissuance of the license.

24 Sec. 157.106 [~~57.049~~]. PROHIBITED ACTS. A person may not
25 advertise, represent to be, or act as a licensed court interpreter
26 unless the person holds an appropriate license under this chapter
27 [~~subchapter~~].

1 Sec. 157.107 [~~57.050~~]. OFFENSE; ADMINISTRATIVE PENALTY.

2 (a) A person commits an offense if the person violates this chapter
3 [~~subchapter~~] or a rule adopted under this chapter [~~subchapter~~]. An
4 offense under this subsection is a Class A misdemeanor.

5 (b) A person who violates this chapter [~~subchapter~~] or a
6 rule adopted under this chapter [~~subchapter~~] is subject to an
7 administrative penalty assessed by the commission as provided by
8 Chapter 153 [~~Subchapter F, Chapter 51, Occupations Code~~].

9 [~~Sec. 57.051. SUNSET. The licensed court interpreter~~
10 ~~advisory board is subject to Chapter 325, Government Code (Texas~~
11 ~~Sunset Act). Unless continued in existence as provided by that~~
12 ~~chapter, the board is abolished and this subchapter expires~~
13 ~~September 1, 2017.~~]

14 ARTICLE 2. CONFORMING CHANGES

15 SECTION 2.01. Article 38.30(a-1), Code of Criminal
16 Procedure, is amended to read as follows:

17 (a-1) A qualified telephone interpreter may be sworn to
18 interpret for the person in the trial of a Class C misdemeanor or a
19 proceeding before a magistrate if an interpreter is not available
20 to appear in person before the court or if the only available
21 interpreter is not considered to possess adequate interpreting
22 skills for the particular situation or is unfamiliar with the use of
23 slang. In this subsection, "qualified telephone interpreter"
24 means a telephone service that employs:

25 (1) licensed court interpreters as defined by Section
26 157.001 [~~57.001~~], Government Code; or

27 (2) federally certified court interpreters.

1 SECTION 2.02. Section 61.0513, Education Code, is amended
2 to read as follows:

3 Sec. 61.0513. COURT REPORTER PROGRAMS. The board may not
4 certify a court reporter program under Section 61.051(f) of this
5 code unless the program has received approval from the Judicial
6 Branch [Court Reporters] Certification Commission [Board].

7 SECTION 2.03. Section 132.055(b)(1), Education Code, is
8 amended to read as follows:

9 (1) The programs, curriculum, and instruction are of
10 such quality, content, and length as may reasonably and adequately
11 achieve the stated objective for which the programs, curriculum, or
12 instruction is offered. Before a career school or college conducts
13 a program of instruction in court reporting, the school or college
14 must produce evidence that the school or college has obtained
15 approval for the curriculum from the Judicial Branch [Court
16 Reporters] Certification Commission [Board].

17 SECTION 2.04. Section 1002.014, Estates Code, as effective
18 January 1, 2014, is amended to read as follows:

19 Sec. 1002.014. GUARDIANSHIP CERTIFICATION PROGRAM OF THE
20 JUDICIAL BRANCH CERTIFICATION COMMISSION [BOARD]. "Guardianship
21 certification program of the Judicial Branch Certification
22 Commission" ["Guardianship Certification Board"] means the program
23 [Guardianship Certification Board] established under Chapter 155
24 [111], Government Code.

25 SECTION 2.05. Section 1002.016, Estates Code, as effective
26 January 1, 2014, is amended to read as follows:

27 Sec. 1002.016. GUARDIANSHIP PROGRAM. "Guardianship

1 program" has the meaning assigned by Section 155.001 [~~111.001~~],
2 Government Code.

3 SECTION 2.06. Section 1002.025, Estates Code, as effective
4 January 1, 2014, is amended to read as follows:

5 Sec. 1002.025. PRIVATE PROFESSIONAL GUARDIAN. "Private
6 professional guardian" has the meaning assigned by Section 155.001
7 [~~111.001~~], Government Code.

8 SECTION 2.07. Section 1101.001(b), Estates Code, as
9 effective January 1, 2014, is amended to read as follows:

10 (b) The application must be sworn to by the applicant and
11 state:

12 (1) the proposed ward's name, sex, date of birth, and
13 address;

14 (2) the name, relationship, and address of the person
15 the applicant seeks to have appointed as guardian;

16 (3) whether guardianship of the person or estate, or
17 both, is sought;

18 (4) the nature and degree of the alleged incapacity,
19 the specific areas of protection and assistance requested, and the
20 limitation or termination of rights requested to be included in the
21 court's order of appointment, including a termination of:

22 (A) the right of a proposed ward who is 18 years
23 of age or older to vote in a public election; and

24 (B) the proposed ward's eligibility to hold or
25 obtain a license to operate a motor vehicle under Chapter 521,
26 Transportation Code;

27 (5) the facts requiring the appointment of a guardian;

1 (6) the interest of the applicant in the appointment
2 of a guardian;

3 (7) the nature and description of any kind of
4 guardianship existing for the proposed ward in any other state;

5 (8) the name and address of any person or institution
6 having the care and custody of the proposed ward;

7 (9) the approximate value and description of the
8 proposed ward's property, including any compensation, pension,
9 insurance, or allowance to which the proposed ward may be entitled;

10 (10) the name and address of any person whom the
11 applicant knows to hold a power of attorney signed by the proposed
12 ward and a description of the type of power of attorney;

13 (11) for a proposed ward who is a minor, the following
14 information if known by the applicant:

15 (A) the name of each of the proposed ward's
16 parents and either the parent's address or that the parent is
17 deceased;

18 (B) the name and age of each of the proposed
19 ward's siblings, if any, and either the sibling's address or that
20 the sibling is deceased; and

21 (C) if each of the proposed ward's parents and
22 siblings are deceased, the names and addresses of the proposed
23 ward's next of kin who are adults;

24 (12) for a proposed ward who is a minor, whether the
25 minor was the subject of a legal or conservatorship proceeding in
26 the preceding two years and, if so:

27 (A) the court involved;

- 1 (B) the nature of the proceeding; and
2 (C) any final disposition of the proceeding;
3 (13) for a proposed ward who is an adult, the following
4 information if known by the applicant:
5 (A) the name of the proposed ward's spouse, if
6 any, and either the spouse's address or that the spouse is deceased;
7 (B) the name of each of the proposed ward's
8 parents and either the parent's address or that the parent is
9 deceased;
10 (C) the name and age of each of the proposed
11 ward's siblings, if any, and either the sibling's address or that
12 the sibling is deceased;
13 (D) the name and age of each of the proposed
14 ward's children, if any, and either the child's address or that the
15 child is deceased; and
16 (E) if there is no living spouse, parent, adult
17 sibling, or adult child of the proposed ward, the names and
18 addresses of the proposed ward's next of kin who are adults;
19 (14) facts showing that the court has venue of the
20 proceeding; and
21 (15) if applicable, that the person whom the applicant
22 seeks to have appointed as a guardian is a private professional
23 guardian who is certified under Subchapter C, Chapter 155 [~~111~~],
24 Government Code, and has complied with the requirements of
25 Subchapter G, Chapter 1104.

26 SECTION 2.08. Section 1104.251(a), Estates Code, as
27 effective January 1, 2014, is amended to read as follows:

1 (a) An individual must be certified under Subchapter C,
2 Chapter 155 [~~111~~], Government Code, if the individual:

3 (1) is a private professional guardian;

4 (2) will represent the interests of a ward as a
5 guardian on behalf of a private professional guardian;

6 (3) is providing guardianship services to a ward of a
7 guardianship program on the program's behalf, except as provided by
8 Section 1104.254; or

9 (4) is an employee of the Department of Aging and
10 Disability Services providing guardianship services to a ward of
11 the department.

12 SECTION 2.09. Section 1104.252, Estates Code, as effective
13 January 1, 2014, is amended to read as follows:

14 Sec. 1104.252. EFFECT OF PROVISIONAL CERTIFICATE. For
15 purposes of this subchapter, a person who holds a provisional
16 certificate issued under Section 155.103 [~~111.0421~~], Government
17 Code, is considered to be certified.

18 SECTION 2.10. Section 1104.253, Estates Code, as effective
19 January 1, 2014, is amended to read as follows:

20 Sec. 1104.253. EXCEPTION FOR FAMILY MEMBERS AND FRIENDS. A
21 family member or friend of an incapacitated person is not required
22 to be certified under Subchapter C, Chapter 155 [~~111~~], Government
23 Code, or any other law to serve as the person's guardian.

24 SECTION 2.11. Section 1104.255, Estates Code, as effective
25 January 1, 2014, is amended to read as follows:

26 Sec. 1104.255. EXPIRATION OF CERTIFICATION. A person whose
27 certification under Subchapter C, Chapter 155 [~~111~~], Government

1 Code, has expired must obtain a new certification under that
2 subchapter to provide or continue providing guardianship services
3 to a ward or incapacitated person under this title.

4 SECTION 2.12. Section 1104.256, Estates Code, as effective
5 January 1, 2014, is amended to read as follows:

6 Sec. 1104.256. FAILURE TO COMPLY; COURT'S DUTY TO NOTIFY.
7 The court shall notify the guardianship certification program of
8 the Judicial Branch Certification Commission [~~Guardianship~~
9 ~~Certification Board~~] if the court becomes aware of a person who is
10 not complying with:

11 (1) the terms of a certification issued under
12 Subchapter C, Chapter 155 [~~111~~], Government Code; or

13 (2) the standards and rules adopted under that
14 subchapter.

15 SECTION 2.13. Section 1104.257, Estates Code, as effective
16 January 1, 2014, is amended to read as follows:

17 Sec. 1104.257. INFORMATION REGARDING SERVICES PROVIDED BY
18 GUARDIANSHIP PROGRAM. Not later than January 31 of each year, each
19 guardianship program operating in a county shall submit to the
20 county clerk a copy of the report submitted to the guardianship
21 certification program of the Judicial Branch Certification
22 Commission [~~Guardianship Certification Board~~] under Section
23 155.105 [~~111.044~~], Government Code.

24 SECTION 2.14. Section 1104.258, Estates Code, as effective
25 January 1, 2014, is amended to read as follows:

26 Sec. 1104.258. INFORMATION REGARDING CERTAIN STATE
27 EMPLOYEES PROVIDING GUARDIANSHIP SERVICES. Not later than January

1 31 of each year, the Department of Aging and Disability Services
2 shall submit to the guardianship certification program of the
3 Judicial Branch Certification Commission [~~Guardianship~~
4 ~~Certification Board~~] a statement containing:

5 (1) the name, address, and telephone number of each
6 department employee who is or will be providing guardianship
7 services to a ward or proposed ward on the department's behalf; and

8 (2) the name of each county in which each employee
9 named in Subdivision (1) is providing or is authorized to provide
10 those services.

11 SECTION 2.15. Section 1104.303(a), Estates Code, as
12 effective January 1, 2014, is amended to read as follows:

13 (a) An application for a certificate of registration must
14 include a sworn statement containing the following information
15 concerning a private professional guardian or each person who
16 represents or plans to represent the interests of a ward as a
17 guardian on behalf of the private professional guardian:

18 (1) place of residence;

19 (2) business address and business telephone number;

20 (3) educational background and professional
21 experience;

22 (4) three or more professional references;

23 (5) the name of each ward for whom the private
24 professional guardian or person is or will be serving as a guardian;

25 (6) the aggregate fair market value of the property of
26 all wards that is or will be managed by the private professional
27 guardian or person;

1 (7) whether the private professional guardian or
2 person has ever been removed as a guardian by the court or resigned
3 as a guardian in a particular case, and, if so:

4 (A) a description of the circumstances causing
5 the removal or resignation; and

6 (B) the style of the suit, the docket number, and
7 the court having jurisdiction over the proceeding; and

8 (8) the certification number or provisional
9 certification number issued to the private professional guardian or
10 person by the guardianship certification program of the Judicial
11 Branch Certification Commission [~~Guardianship Certification~~
12 ~~Board~~].

13 SECTION 2.16. Section 1104.306, Estates Code, as effective
14 January 1, 2014, is amended to read as follows:

15 Sec. 1104.306. USE OF NAMES AND BUSINESS ADDRESSES. Not
16 later than January 31 of each year, the clerk shall submit to the
17 guardianship certification program of the Judicial Branch
18 Certification Commission [~~Guardianship Certification Board~~] the
19 name and business address of each private professional guardian who
20 has satisfied the registration requirements of this subchapter
21 during the preceding year.

22 SECTION 2.17. Section 1104.404(a), Estates Code, as
23 effective January 1, 2014, is amended to read as follows:

24 (a) The clerk described by Section 1104.402 is not required
25 to obtain criminal history record information for a person who
26 holds a certificate issued under Section 155.102 [~~111.042~~],
27 Government Code, or a provisional certificate issued under Section

1 155.103 [~~111.0421~~], Government Code, if the guardianship
2 certification program of the Judicial Branch Certification
3 Commission [~~Guardianship Certification Board~~] conducted a criminal
4 history check on the person before issuing or renewing the
5 certificate.

6 SECTION 2.18. Section 1104.407, Estates Code, as effective
7 January 1, 2014, is amended to read as follows:

8 Sec. 1104.407. DUTY TO PROVIDE INFORMATION ON REQUEST. The
9 department shall provide the information obtained under Section
10 1102.406(a) to:

11 (1) the clerk of the county having venue of the
12 guardianship proceeding at the court's request; and

13 (2) the guardianship certification program of the
14 Judicial Branch Certification Commission [~~Guardianship~~
15 ~~Certification Board~~] at the commission's [~~board's~~] request.

16 SECTION 2.19. Section 1104.408, Estates Code, as effective
17 January 1, 2014, is amended to read as follows:

18 Sec. 1104.408. INFORMATION FOR EXCLUSIVE USE OF COURT OR
19 GUARDIANSHIP CERTIFICATION PROGRAM OF JUDICIAL BRANCH
20 CERTIFICATION COMMISSION [~~BOARD~~]. (a) Criminal history record
21 information obtained under Section 1104.407 is privileged and
22 confidential and is for the exclusive use of the court or
23 guardianship certification program of the Judicial Branch
24 Certification Commission [~~Guardianship Certification Board~~], as
25 appropriate. The information may not be released or otherwise
26 disclosed to any person or agency except:

27 (1) on court order;

1 (2) with the consent of the person being investigated;

2 or

3 (3) as authorized by Section 1104.404 of this code or
4 Section 411.1386(a-6), Government Code.

5 (b) The county clerk or guardianship certification program
6 of the Judicial Branch Certification Commission [~~Guardianship~~
7 ~~Certification Board~~] may destroy the criminal history record
8 information after the information is used for the purposes
9 authorized by this subchapter.

10 SECTION 2.20. Section 1104.410, Estates Code, as effective
11 January 1, 2014, is amended to read as follows:

12 Sec. 1104.410. USE OF INFORMATION BY GUARDIANSHIP
13 CERTIFICATION PROGRAM OF JUDICIAL BRANCH CERTIFICATION COMMISSION
14 [~~BOARD~~]. Criminal history record information obtained by the
15 guardianship certification program of the Judicial Branch
16 Certification Commission [~~Guardianship Certification Board~~] under
17 Section 1104.407(2) may be used for any purpose related to the
18 issuance, denial, renewal, suspension, or revocation of a
19 certificate issued by the commission [~~board~~].

20 SECTION 2.21. Section 1203.052(b), Estates Code, as
21 effective January 1, 2014, is amended to read as follows:

22 (b) In addition to the authority granted to the court under
23 Subsection (a), the court may, on the complaint of the guardianship
24 certification program of the Judicial Branch Certification
25 Commission [~~Guardianship Certification Board~~], remove a guardian
26 who would be ineligible for appointment under Subchapter H, Chapter
27 1104, because of the guardian's failure to maintain the

1 certification required under Subchapter F, Chapter 1104. The
2 guardian shall be cited to appear and contest the request for
3 removal under this subsection in the manner provided by Subsection
4 (a).

5 SECTION 2.22. Section 1251.003(b), Estates Code, as
6 effective January 1, 2014, is amended to read as follows:

7 (b) The application must state:

8 (1) the name and address of the person who is the
9 subject of the guardianship proceeding;

10 (2) the danger to the person or property alleged to be
11 imminent;

12 (3) the type of appointment and the particular
13 protection and assistance being requested;

14 (4) the facts and reasons supporting the allegations
15 and requests;

16 (5) the proposed temporary guardian's name, address,
17 and qualification;

18 (6) the applicant's name, address, and interest; and

19 (7) if applicable, that the proposed temporary
20 guardian is a private professional guardian who is certified under
21 Subchapter C, Chapter 155 [~~111~~], Government Code, and has complied
22 with the requirements of Subchapter G, Chapter 1104.

23 SECTION 2.23. Sections 57.001(1), (2), and (3), Government
24 Code, are amended to read as follows:

25 (1) "Certified court interpreter" means an individual
26 who is a qualified interpreter as defined in Article 38.31, Code of
27 Criminal Procedure, or Section 21.003, Civil Practice and Remedies

1 Code, or certified under Subchapter B by the Department of Aging and
2 Disability [~~Assistive and Rehabilitative~~] Services to interpret
3 court proceedings for a hearing-impaired individual.

4 (2) "Department" means the Department of Aging and
5 Disability [~~Assistive and Rehabilitative~~] Services.

6 (3) "Commissioner" means the commissioner of the
7 department [~~Department of Assistive and Rehabilitative Services~~].

8 SECTION 2.24. Section 411.081(i), Government Code, is
9 amended to read as follows:

10 (i) A criminal justice agency may disclose criminal history
11 record information that is the subject of an order of nondisclosure
12 under Subsection (d) to the following noncriminal justice agencies
13 or entities only:

14 (1) the State Board for Educator Certification;

15 (2) a school district, charter school, private school,
16 regional education service center, commercial transportation
17 company, or education shared service arrangement;

18 (3) the Texas Medical Board;

19 (4) the Texas School for the Blind and Visually
20 Impaired;

21 (5) the Board of Law Examiners;

22 (6) the State Bar of Texas;

23 (7) a district court regarding a petition for name
24 change under Subchapter B, Chapter 45, Family Code;

25 (8) the Texas School for the Deaf;

26 (9) the Department of Family and Protective Services;

27 (10) the Texas Juvenile Justice Department [~~Youth~~

- 1 ~~Commission];~~
2 (11) the Department of Assistive and Rehabilitative
3 Services;
4 (12) the Department of State Health Services, a local
5 mental health service, a local mental retardation authority, or a
6 community center providing services to persons with mental illness
7 or retardation;
8 (13) the Texas Private Security Board;
9 (14) a municipal or volunteer fire department;
10 (15) the Texas Board of Nursing;
11 (16) a safe house providing shelter to children in
12 harmful situations;
13 (17) a public or nonprofit hospital or hospital
14 district;
15 (18) ~~[the Texas Juvenile Probation Commission,~~
16 ~~(19)]~~ the securities commissioner, the banking
17 commissioner, the savings and mortgage lending commissioner, the
18 consumer credit commissioner, or the credit union commissioner;
19 (19) ~~(20)~~ the Texas State Board of Public
20 Accountancy;
21 (20) ~~(21)~~ the Texas Department of Licensing and
22 Regulation;
23 (21) ~~(22)~~ the Health and Human Services Commission;
24 (22) ~~(23)~~ the Department of Aging and Disability
25 Services;
26 (23) ~~(24)~~ the Texas Education Agency;
27 (24) the guardianship certification program of the

1 Judicial Branch Certification Commission [~~(25) the Guardianship~~
2 ~~Certification Board~~];

3 (25) [~~(26)~~] a county clerk's office in relation to a
4 proceeding for the appointment of a guardian under Chapter XIII,
5 Texas Probate Code;

6 (26) [~~(27)~~] the Department of Information Resources
7 but only regarding an employee, applicant for employment,
8 contractor, subcontractor, intern, or volunteer who provides
9 network security services under Chapter 2059 to:

10 (A) the Department of Information Resources; or

11 (B) a contractor or subcontractor of the
12 Department of Information Resources;

13 (27) [~~(28) the Court Reporters Certification Board,~~

14 [~~(29)~~] the Texas Department of Insurance; and

15 (28) [~~(30)~~] the Teacher Retirement System of Texas.

16 SECTION 2.25. Sections 411.1386(a-4), (a-6), (d), and (f),
17 Government Code, are amended to read as follows:

18 (a-4) The Department of Aging and Disability Services shall
19 provide the information obtained under Subsection (a-1) to:

20 (1) the clerk of the county having venue over the
21 guardianship proceeding at the request of the court; and

22 (2) the guardianship certification program of the
23 Judicial Branch Certification Commission [~~Guardianship~~
24 ~~Certification Board~~] at the request of the commission [~~board~~].

25 (a-6) The clerk described by Subsection (a) is not required
26 to obtain criminal history record information for a person who
27 holds a certificate issued under Section 155.102 [~~111.042~~] or a

1 provisional certificate issued under Section 155.103 [~~111.0421~~] if
2 the guardianship certification program of the Judicial Branch
3 Certification Commission [~~Guardianship Certification Board~~]
4 conducted a criminal history check on the person before issuing or
5 renewing the certificate. The commission [~~board~~] shall provide to
6 the clerk at the court's request the criminal history record
7 information that was obtained from the department or the Federal
8 Bureau of Investigation.

9 (d) The criminal history record information obtained under
10 Subsection (a-4) is for the exclusive use of the court or
11 guardianship certification program of the Judicial Branch
12 Certification Commission [~~Guardianship Certification Board~~], as
13 appropriate, and is privileged and confidential. The information
14 may not be released or otherwise disclosed to any person or agency
15 except on court order, with the consent of the person being
16 investigated, or as authorized by Subsection (a-6) or Section
17 698(a-6), Texas Probate Code. The county clerk or guardianship
18 certification program of the Judicial Branch Certification
19 Commission [~~Guardianship Certification Board~~] may destroy the
20 criminal history record information after the information is used
21 for the purposes authorized by this section.

22 (f) Criminal history record information obtained by the
23 guardianship certification program of the Judicial Branch
24 Certification Commission [~~Guardianship Certification Board~~] under
25 Subsection (a-4)(2) may be used for any purpose related to the
26 issuance, denial, renewal, suspension, or revocation of a
27 certificate issued by the commission [~~board~~].

1 SECTION 2.26. Section 411.1403, Government Code, is amended
2 to read as follows:

3 Sec. 411.1403. ACCESS TO CRIMINAL HISTORY RECORD
4 INFORMATION: JUDICIAL BRANCH [~~COURT REPORTERS~~] CERTIFICATION
5 COMMISSION [~~BOARD~~]. (a) In this section, "commission" [~~"board"~~]
6 means the Judicial Branch [~~Court Reporters~~] Certification
7 Commission [~~Board~~] established under Chapter 152 [~~52~~].

8 (b) The commission [~~board~~] is entitled to obtain from the
9 department criminal history record information maintained by the
10 department that relates to a person who is an applicant for or the
11 holder of a certification issued by the commission [~~board~~].

12 (c) Criminal history record information obtained by the
13 commission [~~board~~] under Subsection (b):

14 (1) may be used by the commission [~~board~~] for any
15 purpose related to the issuance, denial, suspension, revocation, or
16 renewal of a certification issued by the commission [~~board~~];

17 (2) may not be released or disclosed to any person
18 except on court order or with the consent of the person who is the
19 subject of the information; and

20 (3) shall be destroyed by the commission [~~board~~] after
21 the information is used for the authorized purposes.

22 SECTION 2.27. Section 411.1408, Government Code, is amended
23 to read as follows:

24 Sec. 411.1408. ACCESS TO CRIMINAL HISTORY RECORD
25 INFORMATION: GUARDIANSHIP CERTIFICATION PROGRAM OF JUDICIAL BRANCH
26 CERTIFICATION COMMISSION [~~BOARD~~]. (a) In this section,
27 "commission" [~~"board"~~] means the guardianship certification

1 program of the Judicial Branch Certification Commission
2 [~~Guardianship Certification Board~~] established under Chapter 155
3 [~~111~~].

4 (b) The commission [~~board~~] is entitled to obtain from the
5 department criminal history record information maintained by the
6 department that relates to a person who is an applicant for or the
7 holder of a certificate issued by the commission [~~board~~].

8 (c) Criminal history record information obtained by the
9 commission [~~board~~] under Subsection (b):

10 (1) may be used by the commission [~~board~~] for any
11 purpose related to the issuance, denial, suspension, revocation, or
12 renewal of a certificate issued by the commission [~~board~~];

13 (2) may not be released or disclosed to any person
14 except:

15 (A) on court order;

16 (B) with the consent of the person who is the
17 subject of the information; or

18 (C) as authorized by Section 411.1386(a-6) of
19 this code or Section 698(a-6), Texas Probate Code; and

20 (3) shall be destroyed by the commission [~~board~~] after
21 the information is used for the authorized purposes.

22 SECTION 2.28. Section 2054.352(a), Government Code, is
23 amended to read as follows:

24 (a) The following licensing entities shall participate in
25 the system established under Section 2054.353:

26 (1) Texas Board of Chiropractic Examiners;

27 (2) Judicial Branch [~~Court Reporters~~] Certification

- 1 Commission [~~Board~~];
- 2 (3) State Board of Dental Examiners;
- 3 (4) Texas Funeral Service Commission;
- 4 (5) Texas Board of Professional Land Surveying;
- 5 (6) Texas Medical Board;
- 6 (7) Texas Board of Nursing;
- 7 (8) Texas Optometry Board;
- 8 (9) Department of Agriculture, for licenses issued
- 9 under Chapter 1951, Occupations Code;
- 10 (10) Texas State Board of Pharmacy;
- 11 (11) Executive Council of Physical Therapy and
- 12 Occupational Therapy Examiners;
- 13 (12) Texas State Board of Plumbing Examiners;
- 14 (13) Texas State Board of Podiatric Medical Examiners;
- 15 (14) Texas State Board of Examiners of Psychologists;
- 16 (15) State Board of Veterinary Medical Examiners;
- 17 (16) Texas Real Estate Commission;
- 18 (17) Texas Appraiser Licensing and Certification
- 19 Board;
- 20 (18) Texas Department of Licensing and Regulation;
- 21 (19) Texas State Board of Public Accountancy;
- 22 (20) State Board for Educator Certification;
- 23 (21) Texas Board of Professional Engineers;
- 24 (22) Department of State Health Services;
- 25 (23) Texas Board of Architectural Examiners;
- 26 (24) Texas Racing Commission;
- 27 (25) Commission on Law Enforcement Officer Standards

1 and Education; and

2 (26) Texas Private Security Board.

3 SECTION 2.29. Section 161.114(c), Human Resources Code, is
4 amended to read as follows:

5 (c) A volunteer may provide life enrichment activities,
6 companionship, transportation services, and other services to or
7 for the ward in a guardianship, except the volunteer may not provide
8 services that would require the volunteer to be certified under
9 Section 155.102 [~~111.042~~], Government Code.

10 SECTION 2.30. Section 151.353(a), Tax Code, is amended to
11 read as follows:

12 (a) Court reporting services relating to the preparation of
13 a document or other record in a civil or criminal suit by a notary
14 public or a court reporter licensed by the Judicial Branch [~~State of~~
15 ~~Texas Court Reporters~~] Certification Commission [~~Board~~] are
16 exempted from the taxes imposed by this chapter if the document is:

17 (1) prepared for the use of a person participating in a
18 suit or the court in which a suit or administrative proceeding is
19 brought; and

20 (2) sold to a person participating in the suit.

21 ARTICLE 3. REPEALER, TRANSITION, AND EFFECTIVE DATE

22 SECTION 3.01. The following provisions of the Government
23 Code are repealed:

24 (1) Sections 52.001(a)(1), (2), (2-a), and (7);

25 (2) Sections 52.002, 52.003, 52.0112, 52.012,
26 52.0121, 52.013, 52.0131, 52.014, 52.015, 52.016, 52.0165, 52.017,
27 52.0175, 52.018, and 52.0185;

1 (3) the heading to Subchapter B, Chapter 52;

2 (4) Section 57.001(5);

3 (5) Sections 72.013 and 72.014; and

4 (6) Subchapter F, Chapter 72.

5 SECTION 3.02. (a) In appointing the initial members of the
6 Judicial Branch Certification Commission created under Chapter
7 152, Government Code, as added by this Act, the Supreme Court of
8 Texas shall appoint three members to terms expiring February 1,
9 2015, three members to terms expiring February 1, 2017, and three
10 members to terms expiring February 1, 2019.

11 (b) The Supreme Court of Texas shall adopt rules,
12 procedures, and forms the supreme court determines are necessary to
13 implement Subtitle K, Title 2, Government Code, as added by this
14 Act, not later than January 1, 2014.

15 (c) On January 1, 2014:

16 (1) the Judicial Branch Certification Commission is
17 created;

18 (2) the Court Reporters Certification Board,
19 Guardianship Certification Board, and process server review board
20 are abolished;

21 (3) the powers, duties, functions, programs, and
22 activities of the Court Reporters Certification Board,
23 Guardianship Certification Board, and process server review board
24 and of the Texas Commission of Licensing and Regulation and the
25 Texas Department of Licensing and Regulation related to licensed
26 court interpreters are transferred to the Judicial Branch
27 Certification Commission;

1 (4) an employee of the Court Reporters Certification
2 Board, Guardianship Certification Board, or process server review
3 board becomes an employee of the Judicial Branch Certification
4 Commission;

5 (5) all obligations and contracts of the Court
6 Reporters Certification Board, Guardianship Certification Board,
7 and process server review board and of the Texas Commission of
8 Licensing and Regulation and the Texas Department of Licensing and
9 Regulation related to licensed court interpreters are transferred
10 to the Judicial Branch Certification Commission;

11 (6) all property and records in the custody of the
12 Court Reporters Certification Board, Guardianship Certification
13 Board, and process server review board and of the Texas Commission
14 of Licensing and Regulation and the Texas Department of Licensing
15 and Regulation related to licensed court interpreters shall be
16 transferred to the Judicial Branch Certification Commission;

17 (7) all complaints, investigations, or contested
18 cases that are pending before the Court Reporters Certification
19 Board, Guardianship Certification Board, and process server review
20 board and of the Texas Commission of Licensing and Regulation and
21 the Texas Department of Licensing and Regulation related to
22 licensed court interpreters are transferred without change in
23 status to the Judicial Branch Certification Commission;

24 (8) a rule or form adopted by the Supreme Court of
25 Texas or the Texas Commission of Licensing and Regulation related
26 to a profession regulated under Subtitle K, Title 2, Government
27 Code, as added by this Act, remains in effect until altered by the

1 supreme court;

2 (9) except as otherwise provided by this Act, a
3 reference in law to the Court Reporters Certification Board,
4 Guardianship Certification Board, or process server review board
5 means the Judicial Branch Certification Commission; and

6 (10) a license, certification, or registration in
7 effect that was issued by the Court Reporters Certification Board,
8 Guardianship Certification Board, process server review board, or
9 Texas Department of Licensing and Regulation related to professions
10 regulated under Subtitle K, Title 2, Government Code, as added by
11 this Act, is continued in effect as a license, certification, or
12 registration of the Judicial Branch Certification Commission.

13 (d) The abolition of the Court Reporters Certification
14 Board, Guardianship Certification Board, and process server review
15 board and the transfer of powers, duties, functions, programs,
16 activities, obligations, rights, contracts, records, property,
17 funds, and employees as provided by this Act do not affect or impair
18 an act done, any obligation, right, order, permit, certificate,
19 rule, criterion, standard, or requirement existing, or any penalty
20 accrued under former law, and that law remains in effect for any
21 action concerning those matters.

22 (e) Subsections (a) and (b) of this section take effect
23 September 1, 2013.

24 SECTION 3.03. Except as otherwise provided by this Act,
25 this Act takes effect January 1, 2014.