

1-1 By: West S.B. No. 966
 1-2 (In the Senate - Filed February 28, 2013; March 12, 2013,
 1-3 read first time and referred to Committee on Jurisprudence;
 1-4 April 2, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 0; April 2, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14			X	
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 966 By: West

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to creation of the Judicial Branch Certification
 1-20 Commission and the consolidation of judicial profession
 1-21 regulation; imposing penalties; authorizing fees.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 ARTICLE 1. JUDICIAL BRANCH CERTIFICATION COMMISSION

1-24 SECTION 1.01. Title 2, Government Code, is amended by
 1-25 adding Subtitle K to read as follows:

1-26 SUBTITLE K. COURT PROFESSIONS REGULATION

1-27 CHAPTER 151. GENERAL PROVISIONS

1-28 Sec. 151.001. DEFINITIONS. In this subtitle:

1-29 (1) "Certification" means a certification issued by
 1-30 the commission.

1-31 (2) "Commission" means the Judicial Branch
 1-32 Certification Commission.

1-33 (3) "Director" means the administrative director of
 1-34 the office.

1-35 (4) "License" means a license issued by the
 1-36 commission.

1-37 (5) "Office" means the Office of Court Administration
 1-38 of the Texas Judicial System.

1-39 (6) "Registration" means a registration issued by the
 1-40 commission.

1-41 (7) "Regulated person" means a person who holds a
 1-42 certification, registration, or license issued by the commission.

1-43 CHAPTER 152. JUDICIAL BRANCH CERTIFICATION COMMISSION

1-44 SUBCHAPTER A. GENERAL PROVISIONS

1-45 Sec. 152.001. SUNSET PROVISION. The Judicial Branch
 1-46 Certification Commission is subject to Chapter 325 (Texas Sunset
 1-47 Act), but is not abolished under that chapter. The commission shall
 1-48 be reviewed during the period in which state agencies abolished in
 1-49 2025 and every 12th year after 2025 are reviewed.

1-50 SUBCHAPTER B. COMMISSION

1-51 Sec. 152.051. ESTABLISHMENT OF COMMISSION. The Judicial
 1-52 Branch Certification Commission is established to oversee the
 1-53 regulatory programs assigned to it by state law or by the supreme
 1-54 court.

1-55 Sec. 152.052. APPOINTMENT OF COMMISSION. (a) The
 1-56 commission consists of nine members appointed by the supreme court
 1-57 as follows:

1-58 (1) five judges, at least three of whom must be active
 1-59 judges who preside over a court that employs an official court
 1-60 reporter; and

2-1 (2) four public members.

2-2 (b) Subject to Subsection (d), public members of the
2-3 commission are appointed as follows:

2-4 (1) one member selected by the supreme court from a
2-5 list of nominees submitted by the Court Reporters Certification
2-6 Advisory Board established under Section 154.051 to represent that
2-7 advisory board;

2-8 (2) one member selected by the supreme court from a
2-9 list of nominees submitted by the Guardianship Certification
2-10 Advisory Board established under Section 155.051 to represent that
2-11 advisory board;

2-12 (3) one member selected by the supreme court from a
2-13 list of nominees submitted by the Process Server Certification
2-14 Advisory Board established under Section 156.051 to represent that
2-15 advisory board; and

2-16 (4) one member selected by the supreme court from a
2-17 list of nominees submitted by the licensed court interpreter
2-18 advisory board established under Section 157.051 to represent that
2-19 advisory board.

2-20 (c) In making an appointment under Subsection (b), the
2-21 supreme court may reject one or more of the nominees included on a
2-22 list submitted by an advisory board and request a new list of
2-23 nominees that does not include any nominees in the previous list.

2-24 (d) The supreme court may appoint to the commission a public
2-25 member selected by the supreme court if:

2-26 (1) an advisory board fails to provide the list of
2-27 nominees in the time required by the supreme court; or

2-28 (2) a selected nominee does not otherwise meet the
2-29 qualifications required by this chapter.

2-30 (e) Appointments to the commission shall be made without
2-31 regard to the race, color, disability, sex, religion, age, or
2-32 national origin of the appointee.

2-33 (f) A member appointed to the commission must be
2-34 knowledgeable about the professions certified by the commission.

2-35 Sec. 152.053. CONFLICT PROVISIONS. (a) In this section,
2-36 "Texas trade association" means a cooperative and voluntarily
2-37 joined statewide association of business or professional
2-38 competitors in this state designed to assist its members and its
2-39 industry or profession in dealing with mutual business or
2-40 professional problems and in promoting their common interest.

2-41 (b) A person is not eligible for appointment as a member of
2-42 the commission if the person or the person's spouse:

2-43 (1) is employed by or participates in the management
2-44 of a business entity or other organization receiving funds from the
2-45 commission;

2-46 (2) owns or controls, directly or indirectly, more
2-47 than a 10 percent interest in a business entity or other
2-48 organization receiving funds from the commission; or

2-49 (3) uses or receives a substantial amount of tangible
2-50 goods, services, or funds from the commission, other than
2-51 compensation or reimbursement authorized by law for commission
2-52 membership, attendance, or expenses.

2-53 (c) A person may not serve as a member of the commission or
2-54 act as the general counsel to the commission if the person is
2-55 required to register as a lobbyist under Chapter 305 because of the
2-56 person's activities for compensation on behalf of a profession
2-57 related to the operation of the commission.

2-58 (d) A person may not be a member of the commission and may
2-59 not be a commission employee employed in a "bona fide executive,
2-60 administrative, or professional capacity," as that phrase is used
2-61 for purposes of establishing an exemption to the overtime
2-62 provisions of the federal Fair Labor Standards Act of 1938 (29
2-63 U.S.C. Section 201 et seq.), if:

2-64 (1) the person is an officer, employee, or paid
2-65 consultant of a Texas trade association in the legal profession; or

2-66 (2) the person's spouse is an officer, manager, or paid
2-67 consultant of a Texas trade association in the legal profession.

2-68 Sec. 152.054. TRAINING. (a) A person who is appointed to
2-69 and qualifies for office as a member of the commission may not vote,

3-1 deliberate, or be counted as a member in attendance at a meeting of
 3-2 the commission until the person completes a training program that
 3-3 complies with this section.

3-4 (b) The training program must provide the person with
 3-5 information regarding:

3-6 (1) this subtitle and the rules of the commission,
 3-7 with an emphasis on the rules that relate to the commission's
 3-8 disciplinary and investigatory authority;

3-9 (2) rules of ethics, codes of conduct, and other rules
 3-10 adopted by the supreme court that are applicable to each profession
 3-11 regulated or subject to oversight by the commission;

3-12 (3) the role and functions of the commission;

3-13 (4) the current budget for the commission;

3-14 (5) the results of the most recent formal audit of the
 3-15 commission; and

3-16 (6) any ethics policies applicable to the commission
 3-17 and adopted by the commission or supreme court.

3-18 (c) A person appointed to the commission is entitled to
 3-19 reimbursement, as provided by the General Appropriations Act, for
 3-20 the travel expenses incurred in attending the training program
 3-21 regardless of whether the attendance at the program occurs before
 3-22 or after the person qualifies for office.

3-23 Sec. 152.055. TERMS; VACANCY; REMOVAL. (a) Members of the
 3-24 commission serve staggered six-year terms. The terms of three
 3-25 members expire on February 1 of each odd-numbered year.

3-26 (b) If a vacancy occurs during a member's term, the supreme
 3-27 court shall appoint a similarly qualified person to fill the
 3-28 unexpired term.

3-29 (c) The supreme court may remove a member of the commission
 3-30 for inefficiency or neglect of duty in office.

3-31 Sec. 152.056. PRESIDING OFFICER. The supreme court shall
 3-32 designate a member of the commission as presiding officer of the
 3-33 commission to serve in that capacity at the pleasure of the supreme
 3-34 court.

3-35 Sec. 152.057. COMPENSATION; REIMBURSEMENT. (a) A
 3-36 commission member may not receive compensation for service on the
 3-37 commission.

3-38 (b) A commission member is entitled to reimbursement for
 3-39 travel expenses and other actual and necessary expenses incurred in
 3-40 performing functions as a commission member, subject to any
 3-41 applicable limitation on reimbursement provided by the General
 3-42 Appropriations Act.

3-43 Sec. 152.058. MEETINGS. (a) The commission shall meet at
 3-44 least once in each quarter of the fiscal year.

3-45 (b) The commission may meet at other times at the call of the
 3-46 presiding officer or as provided by commission rules.

3-47 Sec. 152.059. PUBLIC TESTIMONY. The commission shall
 3-48 develop and implement policies that provide the public with a
 3-49 reasonable opportunity to appear before the commission and to speak
 3-50 on any issue under the jurisdiction of the commission.

3-51 SUBCHAPTER C. ADMINISTRATION

3-52 Sec. 152.101. RULES. The supreme court may adopt rules
 3-53 consistent with this subtitle, including rules governing the
 3-54 certification, registration, licensing, and conduct of persons
 3-55 regulated under this subtitle. The supreme court may authorize the
 3-56 commission to adopt rules as the supreme court considers
 3-57 appropriate or as otherwise specified under this subtitle.

3-58 Sec. 152.102. RULES REGARDING ADVERTISING OR COMPETITIVE
 3-59 BIDDING. (a) Subject to any rules related to ethics or
 3-60 professional conduct promulgated by the supreme court, the supreme
 3-61 court may not adopt rules restricting advertising or competitive
 3-62 bidding by a holder of a certification, registration, or license
 3-63 except to prohibit false, misleading, or deceptive practices.

3-64 (b) In its rules to prohibit false, misleading, or deceptive
 3-65 practices, the supreme court may not include a rule that:

3-66 (1) restricts the use of any medium for advertising;

3-67 (2) restricts the use of a regulated person's personal
 3-68 appearance or voice in an advertisement;

3-69 (3) relates to the size or duration of an

- 4-1 advertisement by the regulated person; or
 4-2 (4) restricts the regulated person's advertisement
 4-3 under a trade name.
- 4-4 Sec. 152.103. ADMINISTRATIVE ATTACHMENT. (a) The
 4-5 commission is administratively attached to the office.
 4-6 (b) Notwithstanding any other law, the office shall:
 4-7 (1) provide administrative assistance, services, and
 4-8 materials to the commission, including budget planning and
 4-9 purchasing;
 4-10 (2) accept, deposit, and disburse money made available
 4-11 to the commission;
 4-12 (3) reimburse the travel expenses and other actual and
 4-13 necessary expenses of commission members incurred in the
 4-14 performance of official commission duties, as provided by the
 4-15 General Appropriations Act; and
 4-16 (4) provide the commission with adequate computer
 4-17 equipment and support.
- 4-18 Sec. 152.104. DIRECTOR. The director shall:
 4-19 (1) perform any duty assigned by the commission and
 4-20 other duties specified by law; and
 4-21 (2) administer and enforce the commission's programs.
- 4-22 Sec. 152.105. DIVISION OF RESPONSIBILITIES. The commission
 4-23 shall develop and implement policies that clearly separate the
 4-24 policy-making responsibilities of the commission and the
 4-25 management responsibilities of the director and the staff of the
 4-26 office.
- 4-27 Sec. 152.106. USE OF TECHNOLOGY. The commission shall
 4-28 implement a policy requiring the commission to use appropriate
 4-29 technological solutions to improve the commission's ability to
 4-30 perform its functions. The policy must ensure that the public is
 4-31 able to interact with the commission on the Internet.
- 4-32 Sec. 152.107. INFORMATION ON STANDARDS OF CONDUCT. The
 4-33 director or the director's designee shall provide to members of the
 4-34 commission and to office employees, as often as necessary,
 4-35 information regarding the requirements for service or employment
 4-36 under this subtitle, including information regarding a person's
 4-37 responsibilities under applicable laws relating to standards of
 4-38 conduct for state officers or employees.
- 4-39 Sec. 152.108. PUBLIC INTEREST INFORMATION. (a) The
 4-40 commission shall prepare information of public interest describing
 4-41 the functions of the commission under this subtitle and the
 4-42 procedure by which complaints are filed and resolved under this
 4-43 subtitle.
 4-44 (b) The commission shall make the information available to
 4-45 the public and appropriate state agencies.
- 4-46 Sec. 152.109. COMPLAINTS. (a) The commission shall
 4-47 establish methods by which consumers are notified of the name,
 4-48 mailing address, and telephone number of the commission for the
 4-49 purpose of directing complaints about persons regulated under this
 4-50 subtitle to the commission.
 4-51 (b) The commission shall list with its regular telephone
 4-52 number any toll-free telephone number established under other state
 4-53 law that may be called to present a complaint about a person
 4-54 regulated under this subtitle.
- 4-55 Sec. 152.110. RECORDS OF COMPLAINTS. (a) The commission
 4-56 shall maintain a file on each written complaint filed with the
 4-57 commission under this subtitle. The file must include:
 4-58 (1) the name of the person who filed the complaint;
 4-59 (2) the date the complaint is received by the
 4-60 commission;
 4-61 (3) the subject matter of the complaint;
 4-62 (4) the name of each person contacted in relation to
 4-63 the complaint;
 4-64 (5) a summary of the results of the review or
 4-65 investigation of the complaint; and
 4-66 (6) an explanation of the reason the file was closed,
 4-67 if the commission closed the file without taking action other than
 4-68 to investigate the complaint.
 4-69 (b) The commission shall provide to the person filing the

5-1 complaint and to each person who is a subject of the complaint a
5-2 copy of the commission's policies and procedures relating to
5-3 complaint investigation and resolution. A person who reports a
5-4 complaint by telephone shall be given information on how to file a
5-5 written complaint.

5-6 (c) The commission, at least quarterly and until final
5-7 disposition of the complaint, shall notify the person filing the
5-8 complaint and each person who is a subject of the complaint of the
5-9 status of the investigation unless the notice would jeopardize an
5-10 ongoing investigation.

5-11 Sec. 152.111. COMPLAINT DISMISSAL. (a) The commission may
5-12 adopt a policy allowing office employees to dismiss complaints
5-13 that:

5-14 (1) clearly do not allege misconduct; or

5-15 (2) are not within the commission's jurisdiction.

5-16 (b) Office employees shall inform the commission of all
5-17 dismissals made under this section.

5-18 (c) A person who files a complaint that is dismissed under
5-19 this section may request that the commission reconsider the
5-20 complaint.

5-21 Sec. 152.112. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

5-22 (a) The commission shall develop and implement a policy to
5-23 encourage the use of appropriate alternative dispute resolution
5-24 procedures to assist in the resolution of internal and external
5-25 disputes under the commission's jurisdiction.

5-26 (b) The procedures relating to alternative dispute
5-27 resolution under this section must conform, to the extent possible,
5-28 to any model guidelines issued by the State Office of
5-29 Administrative Hearings for the use of alternative dispute
5-30 resolution by state agencies.

5-31 SUBCHAPTER D. POWERS AND DUTIES

5-32 Sec. 152.151. GENERAL POWERS AND DUTIES. (a) The
5-33 commission shall:

5-34 (1) administer and enforce this subtitle;

5-35 (2) in consultation with appropriate advisory boards,
5-36 develop and recommend rules to the supreme court;

5-37 (3) in consultation with appropriate advisory boards,
5-38 develop and recommend to the supreme court a code of ethics for each
5-39 profession regulated under this subtitle;

5-40 (4) set fees in amounts reasonable and necessary to
5-41 cover the costs of administering the programs or activities
5-42 administered by the commission, including examinations and
5-43 issuance and renewal of certifications, registrations, and
5-44 licenses; and

5-45 (5) in consultation with appropriate advisory boards,
5-46 establish qualifications for certification, registration, and
5-47 licensing under this subtitle.

5-48 (b) The commission may:

5-49 (1) require applicants for certification,
5-50 registration, or licensing under this subtitle to pass an
5-51 examination that is developed and administered by the commission,
5-52 or by the commission in conjunction with a person with whom the
5-53 commission contracts to develop and administer the examination, and
5-54 charge fees for the examination;

5-55 (2) require regulated persons to obtain continuing
5-56 education; and

5-57 (3) appoint necessary committees.

5-58 Sec. 152.152. ADVISORY BOARDS. (a) In addition to the
5-59 advisory boards specifically established under this subtitle, the
5-60 commission may establish other advisory boards to advise the
5-61 commission on policy and persons regulated under this subtitle.

5-62 (b) An advisory board established under this subtitle,
5-63 including under this section, shall meet at least once each year and
5-64 at the call of the presiding officer.

5-65 (c) An advisory board established under this subtitle,
5-66 including under this section, shall assist the commission by
5-67 developing and recommending rules to the commission. The advisory
5-68 board may establish subcommittees to fulfill the duties imposed
5-69 under this subsection.

6-1 (d) An advisory board member serves without compensation
 6-2 but is entitled to reimbursement for travel expenses and other
 6-3 actual and necessary expenses incurred in performing functions as
 6-4 an advisory board member, subject to any applicable limitation on
 6-5 reimbursement provided by the General Appropriations Act.

6-6 SUBCHAPTER E. CERTIFICATION, REGISTRATION, AND LICENSING
 6-7 REQUIREMENTS

6-8 Sec. 152.201. EXAMINATIONS. (a) Not later than the 30th
 6-9 day after the date a person takes an examination, the commission
 6-10 shall notify the person of the results of the examination.

6-11 (b) If the examination is graded or reviewed by a testing
 6-12 service:

6-13 (1) the commission shall notify the person of the
 6-14 results of the examination not later than the 30th day after the
 6-15 date the commission receives the results from the testing service;
 6-16 and

6-17 (2) if notice of the examination results will be
 6-18 delayed for longer than 90 days after the examination date, the
 6-19 commission shall notify the person of the reason for the delay
 6-20 before the 90th day.

6-21 (c) The commission may require a testing service to:

6-22 (1) notify a person of the results of the person's
 6-23 examination; or

6-24 (2) collect a fee for administering an examination
 6-25 from a person taking the examination.

6-26 (d) If requested in writing by a person who fails an
 6-27 examination, the commission shall furnish the person with an
 6-28 analysis of the person's performance on the examination.

6-29 Sec. 152.202. ENDORSEMENT; RECIPROCITY. (a) The
 6-30 commission may waive any prerequisite to obtaining a certification,
 6-31 registration, or license for an applicant after reviewing the
 6-32 applicant's credentials and determining that the applicant holds a
 6-33 certification, registration, or license issued by another
 6-34 jurisdiction that has certification, registration, or licensing
 6-35 requirements substantially equivalent to those of this state.

6-36 (b) The commission may waive any prerequisite to obtaining a
 6-37 certification, registration, or license for an applicant who holds
 6-38 a certification, registration, or license issued by another
 6-39 jurisdiction with which this state has a reciprocity agreement.
 6-40 The commission may make an agreement, subject to the approval of the
 6-41 supreme court, with another state to allow for certification,
 6-42 registration, or licensing by reciprocity.

6-43 Sec. 152.203. RULES ON INELIGIBILITY. The supreme court
 6-44 shall adopt rules on applicants' ineligibility for certification,
 6-45 registration, or licensing under this subtitle based on the
 6-46 person's criminal history or other information that indicates the
 6-47 person lacks the honesty, trustworthiness, or integrity to hold the
 6-48 certification, registration, or license.

6-49 Sec. 152.204. CONTINUING EDUCATION. (a) The supreme court
 6-50 may authorize and the commission by rule may require continuing
 6-51 professional education for persons regulated under this subtitle.

6-52 (b) The rules for continuing professional education adopted
 6-53 by the commission may include standards relating to:

6-54 (1) reporting by regulated persons or by providers of
 6-55 continuing professional education;

6-56 (2) continuing professional education course content;
 6-57 and

6-58 (3) the minimum number of continuing professional
 6-59 education hours required.

6-60 (c) The commission by rule may exempt certain persons,
 6-61 including retired persons and persons with disabilities, from all
 6-62 or a portion of the continuing education requirements.

6-63 Sec. 152.205. CODE OF ETHICS. (a) The commission shall
 6-64 develop and recommend to the supreme court for adoption by rule a
 6-65 code of ethics for persons regulated under this subtitle. In
 6-66 developing the code of ethics, the commission may use the codes of
 6-67 ethics adopted by state or national associations as models.

6-68 (b) The commission shall publish the code of ethics after
 6-69 adoption by the supreme court.

7-1 (c) After publishing the code of ethics, the commission
 7-2 shall propose to the supreme court a rule stating that a person who
 7-3 violates the code of ethics is subject to an administrative penalty
 7-4 assessed under Chapter 153.

7-5 (d) The commission shall update the code of ethics as
 7-6 necessary to reflect changes in technology or other factors
 7-7 affecting a profession regulated under this subtitle.

7-8 CHAPTER 153. COMMISSION ENFORCEMENT

7-9 SUBCHAPTER A. GENERAL ENFORCEMENT PROVISIONS

7-10 Sec. 153.001. INVESTIGATIONS. The commission may conduct
 7-11 investigations as necessary to enforce the laws administered by the
 7-12 commission.

7-13 Sec. 153.002. SUBPOENAS. (a) The commission may issue a
 7-14 subpoena as provided by this section.

7-15 (b) The commission may request and, if necessary, compel by
 7-16 subpoena:

7-17 (1) the production for inspection and copying of
 7-18 records, documents, and other evidence relevant to the
 7-19 investigation of an alleged violation of this subtitle, a law
 7-20 establishing a regulatory program administered by the commission, a
 7-21 rule adopted under this subtitle, or an order issued by the
 7-22 commission or director; and

7-23 (2) the attendance of a witness for examination under
 7-24 oath.

7-25 (c) A subpoena under this section may be issued throughout
 7-26 this state and may be served by any person designated by the
 7-27 commission or the director.

7-28 (d) The commission, acting through the attorney general,
 7-29 may bring an action to enforce a subpoena issued under this section
 7-30 against a person who fails to comply with the subpoena.

7-31 (e) Venue for an action brought under this section is in a
 7-32 district court in:

7-33 (1) Travis County; or

7-34 (2) any county in which the commission may hold a
 7-35 hearing.

7-36 (f) The court shall order compliance with the subpoena if
 7-37 the court finds that good cause exists to issue the subpoena.

7-38 Sec. 153.003. CEASE AND DESIST ORDER. The director may
 7-39 issue a cease and desist order if the director determines that the
 7-40 action is necessary to prevent a violation of:

7-41 (1) this subtitle;

7-42 (2) a law establishing a regulatory program
 7-43 administered by the commission; or

7-44 (3) a rule adopted under this subtitle or order issued
 7-45 by the commission or the director.

7-46 Sec. 153.004. DENIAL, REVOCATION, SUSPENSION, OR REFUSAL TO
 7-47 RENEW; REPRIMAND; PROBATION. (a) The commission may deny, revoke,
 7-48 suspend, or refuse to renew a certification, registration, or
 7-49 license or may reprimand a regulated person for a violation of this
 7-50 subtitle, a law establishing a regulatory program administered by
 7-51 the commission, a rule adopted under this subtitle, or an order
 7-52 issued by the commission or director.

7-53 (b) The commission may place on probation a person whose
 7-54 certification, registration, or license is suspended. If a
 7-55 certification, registration, or license suspension is probated,
 7-56 the commission may require the person to:

7-57 (1) report regularly to the commission on matters that
 7-58 are the basis of the probation;

7-59 (2) limit practice to the areas prescribed by the
 7-60 commission; or

7-61 (3) continue or review professional education until
 7-62 the person attains a degree of skill satisfactory to the commission
 7-63 in those areas that are the basis for the probation.

7-64 Sec. 153.005. INJUNCTION. (a) The commission may apply to
 7-65 a district court in any county for an injunction to restrain a
 7-66 violation of this subtitle or a rule adopted under this subtitle by
 7-67 a person.

7-68 (b) At the request of the commission, the attorney general
 7-69 shall initiate and conduct an action in a district court in the

8-1 state's name to obtain an injunction under this section.

8-2 (c) If the state prevails in a suit under this section, the
 8-3 attorney general may recover on behalf of the state reasonable
 8-4 attorney's fees, court costs, and reasonable investigative costs
 8-5 incurred in relation to the proceeding.

8-6 SUBCHAPTER B. ADMINISTRATIVE PENALTY; ADMINISTRATIVE SANCTION

8-7 Sec. 153.051. IMPOSITION OF PENALTY. (a) The commission
 8-8 may impose an administrative penalty on a person regulated under
 8-9 this subtitle who violates this subtitle or a rule or standard
 8-10 adopted or order issued under this subtitle.

8-11 (b) A proceeding under this subchapter imposing an
 8-12 administrative penalty may be combined with a proceeding to impose
 8-13 an administrative sanction otherwise imposed under this subtitle.
 8-14 If an administrative sanction is imposed in a proceeding under this
 8-15 subchapter, the requirements of this subchapter apply to the
 8-16 imposition of the sanction.

8-17 Sec. 153.052. AMOUNT OF PENALTY. (a) The amount of an
 8-18 administrative penalty may not exceed \$500 for each violation, and
 8-19 each day a violation continues or occurs is a separate violation for
 8-20 purposes of imposing a penalty.

8-21 (b) The amount shall be based on:
 8-22 (1) the seriousness of the violation, including the
 8-23 nature, circumstances, extent, and gravity of the violation;
 8-24 (2) the threat to health or safety caused by the
 8-25 violation;

8-26 (3) any previous violations;
 8-27 (4) the amount necessary to deter a future violation;
 8-28 (5) whether the violator demonstrated good faith,
 8-29 including when applicable whether the violator made good faith
 8-30 efforts to correct the violation; and

8-31 (6) any other matter that justice may require.

8-32 Sec. 153.053. REPORT AND NOTICE OF VIOLATION, PENALTY, AND
 8-33 SANCTION. (a) The commission shall:

8-34 (1) appoint a committee of advisory board members to
 8-35 review a complaint, make the initial determination on whether a
 8-36 violation occurred, and recommend the imposition of a penalty, a
 8-37 sanction, or both for violations;

8-38 (2) review the determination and recommendation of the
 8-39 committee and accept or revise as necessary the determination and
 8-40 recommendation; and

8-41 (3) give to the person who is the subject of the
 8-42 complaint written notice by certified mail of the commission's
 8-43 determination on whether a violation occurred and each recommended
 8-44 penalty or sanction, if any.

8-45 (b) The notice required under Subsection (a) must:
 8-46 (1) include a brief summary of the alleged violation;
 8-47 (2) state the amount of any recommended penalty;
 8-48 (3) state any recommended sanction; and
 8-49 (4) inform the person of the person's right to a
 8-50 hearing on the occurrence of the violation, the amount of the
 8-51 penalty, the imposition of the sanction, or any combination.

8-52 Sec. 153.054. PENALTY PAID, SANCTION ACCEPTED, OR HEARING
 8-53 REQUESTED. (a) Not later than the 20th day after the date the
 8-54 person receives the notice sent under Section 153.053, the person
 8-55 in writing may:

8-56 (1) accept the determination of the commission and
 8-57 recommended penalty or sanction; or

8-58 (2) make a request for a hearing on the occurrence of
 8-59 the violation, the imposition or amount of the penalty, the
 8-60 imposition of the sanction, or any combination.

8-61 (b) If the person accepts the determination and recommended
 8-62 penalty or sanction or if the person fails to respond to the notice,
 8-63 the commission by order shall approve the determination and impose
 8-64 the recommended penalty or sanction.

8-65 Sec. 153.055. NOTICE; HEARING. (a) If the person requests
 8-66 a hearing, the commission shall give to the person written notice of
 8-67 the hearing that includes the time, place, legal authority, and
 8-68 jurisdiction under which the hearing is held and the laws and rules
 8-69 related to the violation.

9-1 (b) The person may appear, present evidence, and respond to
 9-2 questions from the commission at the hearing.

9-3 (c) The commission shall make findings of fact and
 9-4 conclusions of law and promptly issue an order on the occurrence of
 9-5 the violation, the amount of any penalty imposed, and the
 9-6 imposition of any sanction. The commission shall give the person
 9-7 notice of the order.

9-8 (d) On approval of the supreme court, the commission may
 9-9 adopt rules governing the hearing, including rules on appearance by
 9-10 telephone.

9-11 (e) The presiding officer of the commission may hold
 9-12 prehearing conferences.

9-13 (f) The notice of the commission's order under Subsection
 9-14 (c) must include a statement of the right of the person to appeal
 9-15 the order under Section 153.058.

9-16 (g) On request of the commission, at least one member of the
 9-17 applicable advisory board committee shall attend the hearing to
 9-18 consult with the commission on the reasons for the advisory board
 9-19 committee's recommendations under Section 153.053(a).

9-20 (h) At the hearing, the commission shall apply the general
 9-21 rules of evidence applicable in a district court, except that the
 9-22 commission may admit and consider any information the commission
 9-23 determines is relevant, trustworthy, and necessary for a full and
 9-24 fair adjudication and determination of fact or law.

9-25 Sec. 153.056. OPTIONS FOLLOWING DECISION: PAY, ACCEPT, OR
 9-26 APPEAL. Not later than the 30th day after the date the order of the
 9-27 commission imposing an administrative penalty or sanction under
 9-28 Section 153.055 becomes final, the person shall:

9-29 (1) pay the penalty or accept the sanction; or
 9-30 (2) file an appeal of the commission's order
 9-31 contesting the occurrence of the violation, the imposition or
 9-32 amount of the penalty, the imposition of the sanction, or any
 9-33 combination.

9-34 Sec. 153.057. COLLECTION OF PENALTY. (a) If the person
 9-35 does not pay the penalty and the enforcement of the penalty is not
 9-36 stayed in accordance with supreme court rules, the penalty may be
 9-37 collected.

9-38 (b) The attorney general may sue to collect the penalty and
 9-39 may recover reasonable expenses, including attorney's fees,
 9-40 incurred in recovering the penalty.

9-41 (c) A penalty collected under this subchapter shall be
 9-42 deposited in the state treasury in the general revenue fund.

9-43 Sec. 153.058. APPEAL OF DECISION. (a) The supreme court
 9-44 shall adopt rules governing appeals under this subchapter.

9-45 (b) The rules must require the appeal to be made to a special
 9-46 committee consisting of three regional presiding judges. If the
 9-47 alleged violation involves a certified guardian, the committee must
 9-48 consist of two regional presiding judges and the presiding judge of
 9-49 the statutory probate courts.

9-50 (c) An appeal must be filed not later than the 30th day after
 9-51 the date the commission's order is issued.

9-52 (d) The special committee shall consider the appeal under an
 9-53 abuse of discretion standard of review for all issues except issues
 9-54 involving questions of law. The standard of review for issues
 9-55 involving questions of law is de novo.

9-56 (e) The special committee may confer in writing with a
 9-57 certification, registration, or license holder who is in the same
 9-58 profession as the person appealing the commission's order if the
 9-59 special committee provides to the person:

9-60 (1) notice of the special committee's request for
 9-61 information; and

9-62 (2) a copy of the certification, registration, or
 9-63 license holder's response.

9-64 (f) If the special committee sustains the finding that a
 9-65 violation occurred, the special committee may:

9-66 (1) uphold or reduce the amount of any penalty and
 9-67 order the person to pay the full or reduced amount of the penalty;
 9-68 and

9-69 (2) uphold or reduce any sanction and order the

10-1 imposition of the sanction.

10-2 (g) If the special committee does not sustain the finding
10-3 that a violation occurred, the special committee shall order that a
10-4 penalty is not owed and that a sanction may not be imposed.

10-5 Sec. 153.059. REMITTANCE OF PENALTY AND INTEREST. (a) If
10-6 the person paid the penalty and if the amount of the penalty is
10-7 reduced or the penalty is not upheld by the special committee, the
10-8 special committee shall order that the appropriate amount plus
10-9 accrued interest be remitted to the person not later than the 30th
10-10 day after the date the judgment of the special committee becomes
10-11 final.

10-12 (b) The interest accrues at the rate charged on loans to
10-13 depository institutions by the New York Federal Reserve Bank.

10-14 (c) The interest shall be paid for the period beginning on
10-15 the date the penalty is paid and ending on the date the penalty is
10-16 remitted.

10-17 CHAPTER 154. COURT REPORTERS CERTIFICATION AND SHORTHAND REPORTING
10-18 FIRMS REGISTRATION

10-19 SUBCHAPTER A. GENERAL PROVISIONS

10-20 Sec. 154.001. DEFINITIONS. (a) In this chapter:

10-21 (1) "Advisory board" means the Court Reporters
10-22 Certification Advisory Board.

10-23 (2) "Certification" means, notwithstanding Section
10-24 151.001, a certification issued by the supreme court on the
10-25 commission's recommendation.

10-26 (3) "Official court reporter" means the shorthand
10-27 reporter appointed by a judge as the official court reporter.

10-28 (4) "Shorthand reporter" and "court reporter" mean a
10-29 person who engages in shorthand reporting.

10-30 (5) "Shorthand reporting" and "court reporting" mean
10-31 the practice of shorthand reporting for use in litigation in the
10-32 courts of this state by making a verbatim record of an oral court
10-33 proceeding, deposition, or proceeding before a grand jury, referee,
10-34 or court commissioner using written symbols in shorthand, machine
10-35 shorthand, or oral stenography.

10-36 (6) "Shorthand reporting firm," "court reporting
10-37 firm," and "affiliate office" mean an entity wholly or partly in the
10-38 business of providing court reporting or other related services in
10-39 this state.

10-40 (b) For purposes of Subsection (a)(6), a court reporting
10-41 firm, shorthand reporting firm, or affiliate office is considered
10-42 to be providing court reporting or other related services in this
10-43 state if:

10-44 (1) any act that constitutes a court reporting service
10-45 or shorthand reporting service occurs wholly or partly in this
10-46 state;

10-47 (2) the firm or affiliate office recruits a resident
10-48 of this state through an intermediary located inside or outside of
10-49 this state to provide court reporting services, shorthand reporting
10-50 services, or other related services in this state; or

10-51 (3) the firm or affiliate office contracts with a
10-52 resident of this state by mail or otherwise and either party is to
10-53 perform court reporting services, shorthand reporting services, or
10-54 other related services wholly or partly in this state.

10-55 Sec. 154.002. RULES. The supreme court may adopt rules
10-56 consistent with this subtitle, including rules governing:

10-57 (1) the certification and conduct of official and
10-58 deputy court reporters and shorthand reporters; and

10-59 (2) the registration and conduct of court reporting
10-60 and shorthand reporting firms.

10-61 SECTION 1.02. Chapter 154, Government Code, as added by
10-62 this Act, is amended by adding Subchapter B, and a heading is added
10-63 to that subchapter to read as follows:

10-64 SUBCHAPTER B. COURT REPORTERS CERTIFICATION ADVISORY BOARD

10-65 SECTION 1.03. Sections 52.011 and 52.0111, Government Code,
10-66 are transferred to Subchapter B, Chapter 154, Government Code, as
10-67 added by this Act, redesignated as Sections 154.051 and 154.052,
10-68 Government Code, and amended to read as follows:

10-69 Sec. 154.051 [52.011]. ORGANIZATION. (a) The Court

11-1 Reporters Certification Advisory Board is established as an
 11-2 advisory board to the commission. The advisory board is composed of
 11-3 at least seven members appointed by the supreme court as follows
 11-4 [and is composed of]:

11-5 (1) one active district judge presiding over a court
 11-6 that employs an official court reporter [who serves as chairman];

11-7 (2) one [two] active attorney [attorneys] licensed in
 11-8 this state who has [have] been a practicing member [members] of the
 11-9 State Bar for more than the five years immediately preceding the
 11-10 attorney's [their] appointment to the advisory board;

11-11 (3) two active official court reporters who have
 11-12 practiced shorthand reporting in this state for more than the five
 11-13 years immediately preceding their appointment to the advisory
 11-14 board;

11-15 (4) two active certified shorthand reporters who work
 11-16 on a freelance basis and who have practiced shorthand reporting for
 11-17 more than the five years immediately preceding their appointment to
 11-18 the advisory board; and

11-19 (5) one representative of a shorthand reporting firm
 11-20 [that is not owned by a certified shorthand reporter and] that has
 11-21 operated as a shorthand reporting firm in this state for more than
 11-22 the three years immediately preceding the representative's
 11-23 appointment to the advisory board[+]

11-24 ~~[(6) one representative of a shorthand reporting firm~~
 11-25 ~~that is owned by a certified shorthand reporter and that has~~
 11-26 ~~operated as a shorthand reporting firm in this state for more than~~
 11-27 ~~the three years immediately preceding the representative's~~
 11-28 ~~appointment to the board; and~~

11-29 ~~[(7) four members who are representatives of the~~
 11-30 ~~general public].~~

11-31 (b) Appointments to the advisory board shall be made without
 11-32 regard to the race, color, disability, sex, religion, age, or
 11-33 national origin of the appointees.

11-34 (c) The advisory board member appointed under Subsection
 11-35 (a)(1) serves as presiding officer of the advisory board. [A person
 11-36 may not be a member of the board or act as the general counsel to the
 11-37 board if the person is:

11-38 ~~[(1) required to register as a lobbyist under Chapter~~
 11-39 ~~305 because of the person's activities for compensation on behalf~~
 11-40 ~~of a profession related to the operation of the board; or~~

11-41 ~~[(2) an owner, officer, or employee of a school or~~
 11-42 ~~institution engaged in instructing persons in shorthand reporting~~
 11-43 ~~skills.]~~

11-44 (d) A majority of the advisory board constitutes a quorum.
 11-45 [In this subsection, "Texas trade association" means a cooperative
 11-46 and voluntarily joined statewide association of business or
 11-47 professional competitors in this state designed to assist its
 11-48 members and its industry or profession in dealing with mutual
 11-49 business or professional problems and in promoting their common
 11-50 interest. A person may not be a member of the board and may not be a
 11-51 board employee employed in a "bona fide executive, administrative,
 11-52 or professional capacity," as that phrase is used for purposes of
 11-53 establishing an exemption to the overtime provisions of the federal
 11-54 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
 11-55 and its subsequent amendments, if:

11-56 ~~[(1) the person is an officer, employee, or paid~~
 11-57 ~~consultant of a Texas trade association in the field of shorthand~~
 11-58 ~~reporting; or~~

11-59 ~~[(2) the person's spouse is an officer, manager, or~~
 11-60 ~~paid consultant of a Texas trade association in the field of~~
 11-61 ~~shorthand reporting.]~~

11-62 (e) Advisory board [A person may not be a public member of
 11-63 the board if the person or the person's spouse:

11-64 ~~[(1) is a judge,~~

11-65 ~~[(2) is licensed to practice law in this state,~~

11-66 ~~[(3) is registered or certified by the board,~~

11-67 ~~[(4) is an elected public official,~~

11-68 ~~[(5) is a full-time governmental employee,~~

11-69 ~~[(6) is employed by or participates in the management~~

12-1 ~~of a business entity or other organization regulated by or~~
 12-2 ~~receiving money from the board;~~
 12-3 ~~[(7) owns or controls, directly or indirectly, more~~
 12-4 ~~than a 10 percent interest in a business entity or other~~
 12-5 ~~organization regulated by or receiving money from the board; or~~
 12-6 ~~[(8) uses or receives a substantial amount of tangible~~
 12-7 ~~goods, services, or money from the board other than compensation or~~
 12-8 ~~reimbursement authorized by law for board membership, attendance,~~
 12-9 ~~or expenses.~~
 12-10 ~~[(f) Board] members serve staggered six-year terms of~~
 12-11 ~~office as ordered by the supreme court[, with the terms of two or~~
 12-12 ~~three members expiring on December 31 of each year].~~
 12-13 ~~(f) [(g) A member holds office until that member's~~
 12-14 ~~successor is appointed and has qualified for office. A board member~~
 12-15 ~~may not be appointed to an immediately succeeding term unless the~~
 12-16 ~~member has served less than three consecutive years.~~
 12-17 ~~[(h)] If a vacancy occurs on the advisory board, the supreme~~
 12-18 ~~court shall appoint a similarly qualified person to serve the~~
 12-19 ~~remainder of the term.~~
 12-20 ~~(g) Advisory board [(i) Board] members serve without~~
 12-21 ~~compensation but are entitled to reimbursement for travel expenses~~
 12-22 ~~and other actual and necessary expenses incurred in the performance~~
 12-23 ~~of official advisory [traveling and performing official] board~~
 12-24 ~~duties, as provided by the General Appropriations Act.~~
 12-25 ~~Sec. 154.052 [52.011]. ADVISORY BOARD MEMBER TRAINING.~~
 12-26 (a) A person who is appointed to and qualifies for office as a
 12-27 member of the advisory board may not vote, deliberate, or be counted
 12-28 as a member in attendance at a meeting of the advisory board until
 12-29 the person completes a training program that complies with this
 12-30 section.
 12-31 (b) The training program must provide the person with
 12-32 information regarding:
 12-33 (1) this chapter ~~[the legislation that created the~~
 12-34 ~~board];~~
 12-35 (2) ~~[the programs operated by the board;~~
 12-36 ~~[(3)] the role and functions of the advisory board;~~
 12-37 (3) ~~[(4)] the rules of the commission [board], with an~~
 12-38 ~~emphasis on the rules that relate to disciplinary and investigatory~~
 12-39 ~~authority; and~~
 12-40 (4) ~~[(5) the current budget for the board;~~
 12-41 ~~[(6) the results of the most recent formal audit of the~~
 12-42 ~~board;~~
 12-43 ~~[(7) the requirements of:~~
 12-44 ~~[(A) the open meetings law, Chapter 551;~~
 12-45 ~~[(B) the public information law, Chapter 552;~~
 12-46 ~~[(C) the administrative procedure law, Chapter~~
 12-47 ~~2001; and~~
 12-48 ~~[(D) other laws relating to public officials,~~
 12-49 ~~including conflict-of-interest laws; and~~
 12-50 ~~[(8)] any applicable ethics policies adopted by the~~
 12-51 ~~commission [board or the Texas Ethics Commission].~~
 12-52 (c) A person appointed to the advisory board is entitled to
 12-53 reimbursement, as provided by the General Appropriations Act, for
 12-54 the travel expenses incurred in attending the training program
 12-55 regardless of whether the attendance at the program occurs before
 12-56 or after the person qualifies for office.
 12-57 SECTION 1.04. Subchapter C, Chapter 52, Government Code, is
 12-58 transferred to Chapter 154, Government Code, as added by this Act,
 12-59 redesignated as Subchapter C, Chapter 154, Government Code, and
 12-60 amended to read as follows:
 12-61 SUBCHAPTER C. CERTIFICATION AND REGISTRATION
 12-62 Sec. 154.101 [52.021]. CERTIFICATION OF REPORTERS. (a) A
 12-63 person may not be appointed an official court reporter or a deputy
 12-64 court reporter unless the person is certified as a shorthand
 12-65 reporter by the supreme court.
 12-66 (b) A person may not engage in shorthand reporting in this
 12-67 state unless the person is certified as a shorthand reporter by the
 12-68 supreme court.
 12-69 (c) A certification issued under this chapter must be for

13-1 one or more of the following methods of shorthand reporting:

- 13-2 (1) written shorthand;
 13-3 (2) machine shorthand;
 13-4 (3) oral stenography; or
 13-5 (4) any other method of shorthand reporting authorized
 13-6 by the supreme court.

13-7 (d) A person certified under state law as a court reporter
 13-8 [~~this chapter~~] before September 1, 1983, may retain a general
 13-9 certification authorizing the person to use any authorized method
 13-10 of shorthand reporting. The person must keep the certification in
 13-11 continuous effect.

13-12 (e) A person may not assume or use the title or designation
 13-13 "court recorder," "court reporter," or "shorthand reporter," or any
 13-14 abbreviation, title, designation, words, letters, sign, card, or
 13-15 device tending to indicate that the person is a court reporter or
 13-16 shorthand reporter, unless the person is certified as a shorthand
 13-17 reporter by the supreme court. Nothing in this subsection shall be
 13-18 construed to either sanction or prohibit the use of electronic
 13-19 court recording equipment operated by a noncertified court reporter
 13-20 pursuant and according to rules adopted or approved by the supreme
 13-21 court.

13-22 (f) Except as provided by Section 154.112 [~~52.031~~] and by
 13-23 Section 20.001, Civil Practice and Remedies Code, all depositions
 13-24 conducted in this state must be recorded by a certified shorthand
 13-25 reporter.

13-26 (g) The commission [~~board~~] may enforce this section by
 13-27 seeking an injunction or by filing a complaint against a person who
 13-28 is not certified by the supreme court in the district court of the
 13-29 county in which that person resides or Travis County. Said action
 13-30 for an injunction shall be in addition to any other action,
 13-31 proceeding, or remedy authorized by law. The commission [~~board~~]
 13-32 shall be represented by the attorney general and/or the county or
 13-33 district attorney of this state, or counsel designated and
 13-34 empowered by the commission [~~board~~].

13-35 (h) A court reporting firm shall register with the
 13-36 commission [~~board~~] by completing an application in a form adopted
 13-37 by the commission [~~board~~].

13-38 (i) Rules applicable to a court reporter are also applicable
 13-39 to a court reporting firm. The commission [~~board~~] may enforce this
 13-40 subsection by assessing a reasonable fee against a court reporting
 13-41 firm. This subsection does not apply to court reporting services
 13-42 performed outside of this state by a foreign shorthand reporter who
 13-43 is not certified in this state for use in a court proceeding in this
 13-44 state, provided that the work resulting from those services is
 13-45 produced and billed wholly outside of this state.

13-46 [~~Sec. 52.0211. RULES ON CONSEQUENCES OF CRIMINAL~~
 13-47 ~~CONVICTION. (a) Chapter 53, Occupations Code, applies to an~~
 13-48 ~~applicant for or a holder of a certification or registration under~~
 13-49 ~~this chapter, notwithstanding Section 53.002, Occupations Code.~~

13-50 [~~(b) The supreme court shall adopt rules necessary to comply~~
 13-51 ~~with Chapter 53, Occupations Code.]~~

13-52 Sec. 154.102 [~~52.022~~]. APPLICATION FOR EXAMINATION. A
 13-53 person seeking certification must file an application for
 13-54 examination with the commission [~~board~~] not later than the 30th day
 13-55 before the date fixed for the examination. The application must be
 13-56 accompanied by the required fee.

13-57 Sec. 154.103 [~~52.023~~]. EXAMINATION. (a) The examination
 13-58 for certification in one or more of the authorized methods of
 13-59 shorthand reporting consists of two parts, designated Part A and
 13-60 Part B.

13-61 (b) Part A consists of five minutes of two-voice dictation
 13-62 of questions and answers given at 225 words per minute, five minutes
 13-63 of dictation of jury charges given at 200 words per minute, and five
 13-64 minutes of dictation of selected literary material given at 180
 13-65 words per minute. Each applicant must personally take down the test
 13-66 material, either in writing or in voice, and must prepare a
 13-67 transcript of the material taken down. The minimum passing grade
 13-68 for each section of Part A is 95 percent. A dictionary may be used
 13-69 during Part A. Each applicant has three hours to complete the

14-1 transcription of Part A. If an applicant finishes before the three
 14-2 hours have elapsed, the applicant may review the transcript but may
 14-3 use only the test material taken down by that applicant to review
 14-4 the transcript. An error is charged for:
 14-5 (1) each wrong word;
 14-6 (2) each omitted word;
 14-7 (3) each word added by the applicant that was not
 14-8 dictated;
 14-9 (4) each contraction interpreted by the applicant as
 14-10 two words;
 14-11 (5) two words interpreted by the applicant as a
 14-12 contraction;
 14-13 (6) each misplaced word;
 14-14 (7) each misplaced period that materially alters the
 14-15 sense of a group of words or a sentence;
 14-16 (8) each misspelled word;
 14-17 (9) the use of the plural or singular if the opposite
 14-18 was dictated; and
 14-19 (10) each wrong number.

14-20 (c) Part B consists of objective questions relating to
 14-21 elementary aspects of shorthand reporting, spelling, and grammar.
 14-22 The minimum passing grade for Part B is 75 percent. A dictionary
 14-23 may not be used during Part B.

14-24 (d) An applicant who cheats on the examination is
 14-25 disqualified and may not take the examination again until two years
 14-26 have elapsed from the date of the examination at which the applicant
 14-27 was disqualified.

14-28 ~~[Sec. 52.0231. EXAMINATION RESULTS. (a) Not later than~~
 14-29 ~~the 30th day after the date a person takes an examination under this~~
 14-30 ~~chapter, the board shall notify the person of the results of the~~
 14-31 ~~examination.~~

14-32 ~~[(b) If the examination is graded or reviewed by a testing~~
 14-33 ~~service:~~

14-34 ~~[(1) the board shall notify the person of the results~~
 14-35 ~~of the examination not later than the 30th day after the date the~~
 14-36 ~~board receives the results from the testing service; and~~

14-37 ~~[(2) if notice of the examination results will be~~
 14-38 ~~delayed for longer than 90 days after the examination date, the~~
 14-39 ~~board shall notify the person of the reason for the delay before the~~
 14-40 ~~90th day.~~

14-41 ~~[(c) The board may require a testing service to notify a~~
 14-42 ~~person of the results of the person's examination.~~

14-43 ~~[(d) If requested in writing by a person who fails an~~
 14-44 ~~examination administered under this chapter, the board shall~~
 14-45 ~~furnish the person with an analysis of the person's performance on~~
 14-46 ~~the examination.]~~

14-47 Sec. 154.104 [52.024]. CERTIFICATION TO SUPREME COURT.
 14-48 ~~[(a)]~~ The commission [board] shall certify to the supreme court
 14-49 the name of each qualified applicant who has passed the
 14-50 examination.

14-51 ~~[Sec. 52.0241. RECIPROCAL CERTIFICATION OR CERTIFICATION~~
 14-52 ~~BY ENDORSEMENT. (a) The board may waive any prerequisite to~~
 14-53 ~~certification for an applicant after reviewing the applicant's~~
 14-54 ~~credentials and determining that the applicant holds a license or~~
 14-55 ~~certification issued by another jurisdiction that has licensing or~~
 14-56 ~~certification requirements substantially equivalent to those of~~
 14-57 ~~this state.~~

14-58 ~~[(b) The board may waive any prerequisite to certification~~
 14-59 ~~for an applicant who holds a license or certification issued by~~
 14-60 ~~another jurisdiction with which this state has a reciprocity~~
 14-61 ~~agreement. The board may make an agreement, subject to the approval~~
 14-62 ~~of the supreme court, with another state to allow for certification~~
 14-63 ~~by reciprocity.]~~

14-64 Sec. 154.105 [52.025]. TITLE; OATHS. (a) On certification,
 14-65 a shorthand reporter may use the title "Certified Shorthand
 14-66 Reporter" or the abbreviation "CSR."

14-67 (b) A certified shorthand reporter may administer oaths to
 14-68 witnesses anywhere in this state.

14-69 Sec. 154.106 [52.0255]. FIRM REGISTRATION. (a) A

15-1 shorthand reporting firm may not assume or use the title or
 15-2 designation "court recording firm," "court reporting firm," or
 15-3 "shorthand reporting firm" or any abbreviation, title,
 15-4 designation, words, letters, sign, card, or device tending to
 15-5 indicate that the firm is a court reporting firm or shorthand
 15-6 reporting firm, or offer services as a court reporting firm or
 15-7 shorthand reporting firm, unless the firm and its affiliate offices
 15-8 are registered with the commission [~~board~~] on a form prescribed by
 15-9 the commission [~~board~~] as required by this subchapter [~~chapter~~].

15-10 (b) The commission [~~board~~] may enforce this section against
 15-11 a firm, its affiliate office, or both, if the firm or affiliate
 15-12 office is not registered with the commission [~~board~~], by seeking an
 15-13 injunction or by filing a complaint in the district court of the
 15-14 county in which the firm or affiliate office is located or in Travis
 15-15 County. An action for an injunction is in addition to any other
 15-16 action, proceeding, or remedy authorized by law. The attorney
 15-17 general, a county or district attorney of this state, or counsel
 15-18 designated and empowered by the commission [~~board~~] shall represent
 15-19 the commission [~~board~~].

15-20 Sec. 154.107 [~~52.026~~]. CERTIFICATION AND REGISTRATION FEE
 15-21 AND RENEWAL. (a) A person who receives certification as a
 15-22 shorthand reporter or a shorthand reporting firm or affiliate
 15-23 office that registers with the commission [~~board~~] must pay the
 15-24 initial fee and any other required fee before receiving the
 15-25 certification or registration.

15-26 (b) A certification or registration expires at 12:01 a.m. on
 15-27 January 1 following the second anniversary of the date on which it
 15-28 was issued unless the certification or registration is renewed.
 15-29 Thereafter, the certification or registration expires at 12:01 a.m.
 15-30 of each second January 1 unless renewed.

15-31 (c) A person who is otherwise eligible to renew a
 15-32 certification or registration may renew an unexpired certification
 15-33 or registration by paying the required renewal fee to the
 15-34 commission [~~board~~] before the expiration date of the certification
 15-35 or registration. A person whose certification or registration has
 15-36 expired may not engage in activities that require a certification
 15-37 or registration until the certification or registration has been
 15-38 renewed.

15-39 (d) A person whose certification or registration has been
 15-40 expired for 90 days or less may renew the certification or
 15-41 registration by paying to the commission [~~board~~] a renewal fee that
 15-42 is equal to 1-1/2 times the normally required renewal fee.

15-43 (e) A person whose certification or registration has been
 15-44 expired for more than 90 days but less than one year may renew the
 15-45 certification or registration by paying to the commission [~~board~~] a
 15-46 renewal fee that is equal to two times the normally required renewal
 15-47 fee.

15-48 (f) A person whose certification or registration has been
 15-49 expired for one year or more may not renew the certification or
 15-50 registration. The person may obtain a new certification or
 15-51 registration by complying with the requirements and procedures,
 15-52 including the examination requirements, for obtaining an original
 15-53 certification or registration.

15-54 (g) A person who was certified in this state, moved to
 15-55 another state, and is currently certified and has been in practice
 15-56 in the other state for the two years preceding the date of
 15-57 application may obtain a new certification without reexamination.
 15-58 The person must pay to the commission [~~board~~] a fee that is equal to
 15-59 two times the normally required renewal fee for the certification.

15-60 (h) Not later than the 30th day before the date a person's
 15-61 certification or registration is scheduled to expire, the
 15-62 commission [~~board~~] shall send written notice of the impending
 15-63 expiration to the person at the person's last known address
 15-64 according to the records of the commission [~~board~~].

15-65 Sec. 154.108 [~~52.0261~~]. STAGGERED RENEWAL OF CERTIFICATION
 15-66 OR REGISTRATION. The supreme court by rule may adopt a system under
 15-67 which certifications or registrations expire on various dates
 15-68 during the year. For the year in which the certification or
 15-69 registration expiration date is changed, the commission [~~board~~]

16-1 shall prorate certification or registration fees on a monthly basis
 16-2 so that each certification or registration holder pays only that
 16-3 portion of the certification or registration fee that is allocable
 16-4 to the number of months during which the certification or
 16-5 registration is valid. On renewal of the certification or
 16-6 registration on the new expiration date, the total certification or
 16-7 registration renewal fee is payable.

16-8 Sec. 154.109 [~~52.027~~]. COMPLAINT. (a) To file a complaint
 16-9 against a certified shorthand reporter or a shorthand reporting
 16-10 firm or affiliate office registered with the commission [~~board~~], a
 16-11 person must:

16-12 (1) have personal knowledge of the alleged violation;
 16-13 (2) complete a complaint form provided by the
 16-14 commission [~~board~~];
 16-15 (3) sign the completed form; and
 16-16 (4) attach any pertinent documentary evidence to the
 16-17 form.

16-18 (b) On receipt of a properly executed complaint, the
 16-19 commission [~~board~~] shall furnish a copy of the complaint and any
 16-20 attachments to the shorthand reporter or shorthand reporting firm
 16-21 or affiliate office that is the subject of the complaint.

16-22 (c) This section does not preclude the commission [~~board~~] or
 16-23 a court of this state from filing a complaint against a certified
 16-24 shorthand reporter or a shorthand reporting firm. An advisory
 16-25 board member may recommend to the commission a complaint to be filed
 16-26 against a certified shorthand reporter or a shorthand reporting
 16-27 firm or affiliated office registered with the commission.

16-28 [~~Sec. 52.0271. COMPLAINT DISMISSAL. (a) The board may~~
 16-29 ~~adopt a policy allowing board employees to dismiss complaints that:~~

16-30 [~~(1) clearly do not allege misconduct; or~~
 16-31 [~~(2) are not within the board's jurisdiction.~~

16-32 [~~(b) Board employees shall inform the board of all~~
 16-33 ~~dismissals made under this section.~~

16-34 [~~(c) A person who files a complaint that is dismissed under~~
 16-35 ~~this section may request that the board reconsider the complaint.~~

16-36 [~~Sec. 52.028. NOTICE AND HEARING. (a) If after receiving~~
 16-37 ~~a verified complaint the board believes that a hearing on the~~
 16-38 ~~complaint is advisable, the board shall set a date for the hearing~~
 16-39 ~~not later than the 30th day after the date on which the board~~
 16-40 ~~received the complaint.~~

16-41 [~~(b) Immediately after setting the date for the hearing, the~~
 16-42 ~~board shall notify the shorthand reporter or shorthand reporting~~
 16-43 ~~firm or affiliate office that is the subject of the complaint. The~~
 16-44 ~~notice must state the cause of any contemplated disciplinary action~~
 16-45 ~~and the time and place of the hearing. The notice shall be mailed to~~
 16-46 ~~the registered address of the shorthand reporter or shorthand~~
 16-47 ~~reporting firm or affiliate office not later than the 30th day~~
 16-48 ~~before the date on which the hearing is scheduled.~~

16-49 [~~(c) The chairman or the chairman's designee shall preside~~
 16-50 ~~at the hearing.~~

16-51 [~~(d) At the hearing, the board shall apply the general rules~~
 16-52 ~~of evidence applicable in a district court.~~

16-53 [~~(e) The board shall rule on requests for continuances with~~
 16-54 ~~regard to the hearing.~~

16-55 [~~(f) At the direction of a majority of the board, each board~~
 16-56 ~~member may administer oaths, subpoena witnesses and compel their~~
 16-57 ~~attendance, take evidence, and require the production of records~~
 16-58 ~~relating to a matter within the board's jurisdiction.~~

16-59 [~~(g) The board shall produce a written summary of the~~
 16-60 ~~evidence before it and a written finding of facts. The board shall~~
 16-61 ~~forward a copy of its findings of fact and rulings to the~~
 16-62 ~~complainant and any aggrieved party.]~~

16-63 Sec. 154.110 [~~52.029~~]. DISCIPLINARY ACTIONS AGAINST COURT
 16-64 REPORTERS. (a) After receiving a complaint and giving the
 16-65 certified shorthand reporter notice and an opportunity for a
 16-66 hearing as prescribed by Subchapter B, Chapter 153 [~~Section~~
 16-67 ~~52.028~~], the commission [~~board~~] shall revoke, suspend, or refuse to
 16-68 renew the shorthand reporter's certification or issue a reprimand
 16-69 to the reporter for:

- 17-1 (1) fraud or corruption;
 17-2 (2) dishonesty;
 17-3 (3) wilful or negligent violation or failure of duty;
 17-4 (4) incompetence;
 17-5 (5) fraud or misrepresentation in obtaining
 17-6 certification;
 17-7 (6) a final conviction of a felony or misdemeanor that
 17-8 directly relates to the duties and responsibilities of a certified
 17-9 court reporter, as determined by supreme court rules [~~adopted under~~
 17-10 ~~Section 52.0211~~];
 17-11 (7) engaging in the practice of shorthand reporting
 17-12 using a method for which the reporter is not certified;
 17-13 (8) engaging in the practice of shorthand reporting
 17-14 while certification is suspended;
 17-15 (9) unprofessional conduct, including giving directly
 17-16 or indirectly, benefiting from, or being employed as a result of any
 17-17 gift, incentive, reward, or anything of value to attorneys,
 17-18 clients, or their representatives or agents, except for nominal
 17-19 items that do not exceed \$100 in the aggregate for each recipient
 17-20 each year;
 17-21 (10) entering into or providing services under a
 17-22 prohibited contract described by Section 154.115 [~~52.034~~];
 17-23 (11) committing any other act that violates this
 17-24 chapter or a rule or provision of the code of ethics adopted under
 17-25 this subtitle [~~chapter~~]; or
 17-26 (12) other sufficient cause.
- 17-27 (b) The commission [~~board~~] may suspend the certification:
 17-28 (1) for a designated period of time not to exceed 12
 17-29 months;
 17-30 (2) until the person corrects the deficiencies that
 17-31 were the grounds for the suspension; or
 17-32 (3) until the person complies with any conditions
 17-33 imposed by the commission [~~board~~] to ensure the person's future
 17-34 performance as a shorthand reporter.
- 17-35 (c) A suspended shorthand reporter may apply for
 17-36 reinstatement by presenting proof that:
 17-37 (1) the designated time has expired;
 17-38 (2) the person has corrected the deficiencies; or
 17-39 (3) the person has complied with the conditions
 17-40 imposed by the commission [~~board~~].
- 17-41 (d) On its own motion, the commission [~~board~~] may conduct a
 17-42 hearing to inquire into a suspension. If the commission [~~board~~]
 17-43 finds that a person has not corrected the deficiencies that were the
 17-44 grounds of the suspension or has not complied with the conditions
 17-45 imposed by the commission [~~board~~], the commission [~~board~~] may
 17-46 revoke the person's certification.
- 17-47 (e) The supreme court may authorize and the commission
 17-48 [~~board~~] may adopt rules relating to the nonrenewal of the
 17-49 certification of a court reporter who is in default on a loan
 17-50 guaranteed under Chapter 57, Education Code, by the Texas
 17-51 Guaranteed Student Loan Corporation.
- 17-52 (f) The commission [~~board~~] may place on probation a person
 17-53 whose certification is suspended. If a certification suspension is
 17-54 probated, the commission [~~board~~] may require the person to:
 17-55 (1) report regularly to the commission [~~board~~] on
 17-56 matters that are the basis of the probation;
 17-57 (2) limit practice to the areas prescribed by the
 17-58 commission [~~board~~]; or
 17-59 (3) continue or review professional education until
 17-60 the person attains a degree of skill satisfactory to the commission
 17-61 [~~board~~] in those areas that are the basis of the probation.
- 17-62 Sec. 154.111 [~~52.0295~~]. DISCIPLINARY ACTIONS AGAINST
 17-63 FIRMS. (a) After receiving a complaint and giving the shorthand
 17-64 reporting firm or affiliate office notice and an opportunity for a
 17-65 hearing as prescribed by Subchapter B, Chapter 153 [~~Section~~
 17-66 ~~52.028~~], the commission [~~board~~] shall reprimand, assess a
 17-67 reasonable fine against, or suspend, revoke, or refuse to renew the
 17-68 registration of a shorthand reporting firm or affiliate office for:
 17-69 (1) fraud or corruption;

18-1 (2) dishonesty;

18-2 (3) conduct on the part of an officer, director, or
18-3 managerial employee of the shorthand reporting firm or affiliate
18-4 office if the officer, director, or managerial employee orders,
18-5 encourages, or permits conduct that the officer, director, or
18-6 managerial employee knows or should have known violates this
18-7 subtitle [~~chapter~~];

18-8 (4) conduct on the part of an officer, director, or
18-9 managerial employee or agent of the shorthand reporting firm or
18-10 affiliate office who has direct supervisory authority over a person
18-11 for whom the officer, director, employee, or agent knows or should
18-12 have known violated this subtitle [~~chapter~~] and knowingly fails to
18-13 take reasonable remedial action to avoid or mitigate the
18-14 consequences of the person's actions;

18-15 (5) fraud or misrepresentation in obtaining
18-16 registration;

18-17 (6) a final conviction of an officer, director, or
18-18 managerial employee of a shorthand reporting firm or affiliate
18-19 office for a felony or misdemeanor that is directly related to the
18-20 provision of court reporting services, as determined by supreme
18-21 court rules [~~adopted under Section 52.0211~~];

18-22 (7) engaging the services of a reporter that the
18-23 shorthand reporting firm or affiliate office knew or should have
18-24 known was using a method for which the reporter is not certified;

18-25 (8) knowingly providing court reporting services
18-26 while the shorthand reporting firm's or affiliate office's
18-27 registration is suspended or engaging the services of a shorthand
18-28 reporter whose certification the shorthand reporting firm or
18-29 affiliate office knew or should have known was suspended;

18-30 (9) unprofessional conduct, including a pattern of
18-31 giving directly or indirectly or benefiting from or being employed
18-32 as a result of giving any gift, incentive, reward, or anything of
18-33 value to attorneys, clients, or their representatives or agents,
18-34 except for nominal items that do not exceed \$100 in the aggregate
18-35 for each recipient each year;

18-36 (10) entering into or providing services under a
18-37 prohibited contract described by Section 154.115 [~~52.034~~];

18-38 (11) committing any other act that violates this
18-39 chapter or a rule or provision of the code of ethics adopted under
18-40 this subtitle [~~chapter~~]; or

18-41 (12) other sufficient cause.

18-42 (b) Nothing in Subsection (a)(9) shall be construed to
18-43 define providing value-added business services, including
18-44 long-term volume discounts, such as the pricing of products and
18-45 services, as prohibited gifts, incentives, or rewards.

18-46 (c) The commission [~~board~~] may suspend the registration of a
18-47 shorthand reporting firm or affiliate office:

18-48 (1) for a designated period of time;

18-49 (2) until the shorthand reporting firm or affiliate
18-50 office corrects the deficiencies that were the grounds for the
18-51 suspension; or

18-52 (3) until the shorthand reporting firm or affiliate
18-53 office complies with any conditions imposed by the commission
18-54 [~~board~~] to ensure the shorthand reporting firm's or affiliate
18-55 office's future performance.

18-56 (d) A shorthand reporting firm or affiliate office whose
18-57 registration is suspended may apply for reinstatement by presenting
18-58 proof that:

18-59 (1) the designated time has expired;

18-60 (2) the shorthand reporting firm or affiliate office
18-61 has corrected the deficiencies; or

18-62 (3) the shorthand reporting firm or affiliate office
18-63 has complied with the conditions imposed by the commission [~~board~~].

18-64 (e) On its own motion, the commission [~~board~~] may conduct a
18-65 hearing to inquire into a suspension. If the commission [~~board~~]
18-66 finds that a shorthand reporting firm or affiliate office has not
18-67 corrected the deficiencies that were the grounds for the suspension
18-68 or has not complied with the conditions imposed by the commission
18-69 [~~board~~], the commission [~~board~~] may revoke the registration of the

19-1 shorthand reporting firm or affiliate office.

19-2 (f) The commission [~~board~~] may place on probation a
 19-3 shorthand reporting firm or affiliate office whose registration is
 19-4 suspended. If a registration suspension is probated, the

19-5 commission [~~board~~] may require the firm or office to:

19-6 (1) report regularly to the commission [~~board~~] on
 19-7 matters that are the basis of the probation;

19-8 (2) limit practice to the areas prescribed by the
 19-9 commission [~~board~~]; or

19-10 (3) through its officers, directors, managerial
 19-11 employees, or agents, continue or review professional education
 19-12 until those persons attain a degree of skill satisfactory to the
 19-13 commission [~~board~~] in those areas that are the basis of the
 19-14 probation.

19-15 [~~Sec. 52.030. APPEAL OF DISCIPLINARY ACTION. An aggrieved
 19-16 court reporter or shorthand reporting firm or affiliate office may
 19-17 appeal a disciplinary action of the board to a district court in the
 19-18 county of the court reporter's residence or the county in which the
 19-19 shorthand reporting firm or affiliate office is located or in
 19-20 Travis County. The appeal shall be by trial de novo, with or
 19-21 without a jury. If the aggrieved person is the official or deputy
 19-22 court reporter of the court in which the appeal will be heard or if
 19-23 the shorthand reporting firm or affiliate office provides the
 19-24 official or deputy court reporter of the court in which the appeal
 19-25 will be heard, the presiding judge of the administrative judicial
 19-26 region shall appoint the judge of another court or a retired judge
 19-27 to hear and determine the complaint.]~~

19-28 Sec. 154.112 [~~52.031~~]. EMPLOYMENT OF NONCERTIFIED
 19-29 SHORTHAND REPORTERS. (a) A noncertified shorthand reporter may be
 19-30 employed until a certified shorthand reporter is available.

19-31 (b) A noncertified shorthand reporter may report an oral
 19-32 deposition only if:

19-33 (1) the noncertified shorthand reporter delivers an
 19-34 affidavit to the parties or to their counsel present at the
 19-35 deposition stating that a certified shorthand reporter is not
 19-36 available; or

19-37 (2) the parties or their counsel stipulate on the
 19-38 record at the beginning of the deposition that a certified
 19-39 shorthand reporter is not available.

19-40 (c) This section does not apply to a deposition taken
 19-41 outside this state for use in this state.

19-42 Sec. 154.113 [~~52.032~~]. CRIMINAL PENALTY. (a) Except as
 19-43 provided by Section 154.112 [~~52.031~~], a person commits an offense
 19-44 if the person engages in shorthand reporting in violation of
 19-45 Section 154.101 [~~52.021 of this code~~]. Each day of violation
 19-46 constitutes a separate offense.

19-47 (b) An offense under this section is a Class A misdemeanor.

19-48 [~~Sec. 52.0321. ADMINISTRATIVE PENALTY. (a) The board may
 19-49 assess an administrative penalty against a person who violates this
 19-50 chapter or a rule or provision of the code of ethics adopted under
 19-51 this chapter.~~

19-52 [~~(b) In determining the amount of an administrative penalty
 19-53 assessed under this section, the board shall consider:~~

- 19-54 [~~(1) the seriousness of the violation;~~
- 19-55 [~~(2) the history of previous violations;~~
- 19-56 [~~(3) the amount necessary to deter future violations;~~
- 19-57 [~~(4) efforts made to correct the violation; and~~
- 19-58 [~~(5) any other matters that justice may require.]~~

19-59 Sec. 154.114 [~~52.033~~]. EXEMPTIONS. This chapter does not
 19-60 apply to:

- 19-61 (1) a party to the litigation involved;
- 19-62 (2) the attorney of the party; or
- 19-63 (3) a full-time employee of a party or a party's
 19-64 attorney.

19-65 Sec. 154.115 [~~52.034~~]. PROHIBITED CONTRACTS. (a) A court
 19-66 reporter may not enter into or provide services under any
 19-67 contractual agreement, written or oral, exclusive or nonexclusive,
 19-68 that:

- 19-69 (1) undermines the impartiality of the court reporter;

20-1 (2) requires a court reporter to relinquish control of
 20-2 an original deposition transcript and copies of the transcript
 20-3 before it is certified and delivered to the custodial attorney;

20-4 (3) requires a court reporter to provide any service
 20-5 not made available to all parties to an action; or

20-6 (4) gives or appears to give an exclusive advantage to
 20-7 any party.

20-8 (b) This section does not apply to a contract for court
 20-9 reporting services for a court, agency, or instrumentality of the
 20-10 United States or this state.

20-11 SECTION 1.05. Chapter 111, Government Code, is transferred
 20-12 to Subtitle K, Title 2, Government Code, as added by this Act,
 20-13 redesignated as Chapter 155, Government Code, and amended to read
 20-14 as follows:

20-15 CHAPTER 155 [~~111~~]. GUARDIANSHIP CERTIFICATION [~~BOARD~~]

20-16 SUBCHAPTER A. GENERAL PROVISIONS

20-17 Sec. 155.001 [~~111.001~~]. DEFINITIONS. In this chapter:

20-18 (1) "Advisory board" [~~"Administrative director" means~~
 20-19 ~~the administrative director of the courts as appointed by Chapter~~
 20-20 ~~72.~~

20-21 [~~(2) "Board"~~] means the Guardianship Certification
 20-22 Advisory Board.

20-23 (2) [~~(3)~~] "Corporate fiduciary" has the meaning
 20-24 assigned by Section 601, Texas Probate Code.

20-25 (3) [~~(4) "Director" means the administrative officer~~
 20-26 ~~of the board, as provided by Section 111.021.~~

20-27 [~~(5)~~] "Guardian" has the meaning assigned by Section
 20-28 601, Texas Probate Code.

20-29 (4) [~~(6)~~] "Guardianship program" means a local,
 20-30 county, or regional program that provides guardianship and related
 20-31 services to an incapacitated person or other person who needs
 20-32 assistance in making decisions concerning the person's own welfare
 20-33 or financial affairs.

20-34 (5) [~~(7)~~] "Incapacitated person" has the meaning
 20-35 assigned by Section 601, Texas Probate Code.

20-36 (6) [~~(8) "Office of Court Administration" means the~~
 20-37 ~~Office of Court Administration of the Texas Judicial System.~~

20-38 [~~(9)~~] "Private professional guardian" means a person,
 20-39 other than an attorney or a corporate fiduciary, who is engaged in
 20-40 the business of providing guardianship services.

20-41 (7) [~~(10)~~] "Ward" has the meaning assigned by Section
 20-42 601, Texas Probate Code.

20-43 Sec. 155.002 [~~111.002~~]. RULES. The supreme court may adopt
 20-44 rules consistent with this chapter, including rules governing the
 20-45 certification of individuals providing guardianship services.

20-46 [~~Sec. 111.003. SUNSET PROVISION. The board is subject to~~
 20-47 ~~Chapter 325, Government Code (Texas Sunset Act). Unless continued~~
 20-48 ~~in existence as provided by that chapter, the board is abolished and~~
 20-49 ~~this chapter expires September 1, 2015.~~]

20-50 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

20-51 Sec. 155.051 [~~111.011~~]. ADVISORY BOARD. (a) The
 20-52 Guardianship Certification Advisory Board is established as an
 20-53 advisory board to the commission. The advisory board is composed of
 20-54 at least five members appointed by the supreme court [~~+~~

20-55 [~~(1) 11 members appointed by the supreme court, and~~

20-56 [~~(2) four public members appointed by the supreme~~
 20-57 ~~court from a list of nominees submitted by the governor].~~

20-58 (b) [~~The supreme court shall appoint members under~~
 20-59 ~~Subsection (a)(1) from the different geographical areas of this~~
 20-60 ~~state.~~

20-61 [~~(c) In making an appointment under Subsection (a)(2), the~~
 20-62 ~~supreme court may reject one or more of the nominees on a list~~
 20-63 ~~submitted by the governor and request a new list of different~~
 20-64 ~~nominees.~~

20-65 [~~(d) To be eligible for appointment to the board other than~~
 20-66 ~~as a public member, an individual must have demonstrated experience~~
 20-67 ~~working with:~~

20-68 [~~(1) a guardianship program,~~

20-69 [~~(2) an organization that advocates on behalf of or in~~

21-1 ~~the interest of elderly individuals,~~
21-2 ~~[(3) an organization that advocates on behalf of or in~~
21-3 ~~the interest of individuals with mental illness or mental~~
21-4 ~~retardation or individuals with physical disabilities, or~~
21-5 ~~[(4) incapacitated individuals.~~
21-6 ~~[(e) The public members of the board must be:~~
21-7 ~~[(1) caretakers of individuals with mental illness or~~
21-8 ~~mental retardation or individuals with physical disabilities, or~~
21-9 ~~[(2) persons who advocate on behalf of or in the~~
21-10 ~~interest of individuals with mental illness or mental retardation~~
21-11 ~~or individuals with physical disabilities.~~
21-12 ~~[(f)] Appointments to the advisory board shall be made~~
21-13 ~~without regard to the race, color, disability, sex, religion, age,~~
21-14 ~~or national origin of the appointees.~~
21-15 (c) The supreme court shall appoint a presiding officer of
21-16 the advisory board from among the advisory board members to serve
21-17 for two years.
21-18 (d) A majority of the advisory board constitutes a quorum.
21-19 (e) Advisory board [(g) The] members [of the board] serve
21-20 for staggered six-year terms as ordered by the supreme court~~[, with~~
21-21 ~~the terms of one-third of the members expiring on February 1 of each~~
21-22 ~~odd-numbered year].~~ Advisory board [Board] members serve without
21-23 compensation but are entitled to reimbursement for travel expenses
21-24 and other actual and necessary expenses incurred in the performance
21-25 of official advisory board duties, as provided by the General
21-26 Appropriations Act.
21-27 ~~[(h) The board shall elect from among its members a~~
21-28 ~~presiding officer and other officers considered necessary.~~
21-29 ~~[(i) The board shall meet at least quarterly at the call of~~
21-30 ~~the presiding officer.~~
21-31 ~~[(j) Any action taken by the board must be approved by a~~
21-32 ~~majority vote of the members present.~~
21-33 ~~[Sec. 111.012. ADMINISTRATIVE ATTACHMENT. (a) The board~~
21-34 ~~is administratively attached to the Office of Court Administration.~~
21-35 ~~[(b) Notwithstanding any other law, the Office of Court~~
21-36 ~~Administration shall:~~
21-37 ~~[(1) provide administrative assistance, services, and~~
21-38 ~~materials to the board, including budget planning and purchasing,~~
21-39 ~~[(2) accept, deposit, and disburse money made~~
21-40 ~~available to the board,~~
21-41 ~~[(3) pay the salaries and benefits of the director,~~
21-42 ~~[(4) reimburse the travel expenses and other actual~~
21-43 ~~and necessary expenses of the director incurred in the performance~~
21-44 ~~of a function of the board, as provided by the General~~
21-45 ~~Appropriations Act,~~
21-46 ~~[(5) reimburse the travel expenses and other actual~~
21-47 ~~and necessary expenses of board members incurred in the performance~~
21-48 ~~of official board duties, as provided by the General Appropriations~~
21-49 ~~Act, and~~
21-50 ~~[(6) provide the board with adequate computer~~
21-51 ~~equipment and support.~~
21-52 ~~[Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. A person is~~
21-53 ~~not eligible for appointment as a public member of the board if the~~
21-54 ~~person or the person's spouse:~~
21-55 ~~[(1) is certified by the board,~~
21-56 ~~[(2) is registered, certified, or licensed by a~~
21-57 ~~regulatory agency in the field of guardianship,~~
21-58 ~~[(3) is employed by or participates in the management~~
21-59 ~~of a business entity or other organization regulated by the board or~~
21-60 ~~receiving money from the Office of Court Administration,~~
21-61 ~~[(4) owns or controls, directly or indirectly, more~~
21-62 ~~than a 10 percent interest in a business entity or other~~
21-63 ~~organization regulated by the board or receiving money from the~~
21-64 ~~Office of Court Administration, or~~
21-65 ~~[(5) uses or receives a substantial amount of tangible~~
21-66 ~~goods, services, or funds from the Office of Court Administration.~~
21-67 ~~[Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.~~
21-68 ~~(a) In this section, "Texas trade association" means a cooperative~~
21-69 ~~and voluntarily joined statewide association of business or~~

22-1 ~~professional competitors in this state designed to assist its~~
 22-2 ~~members and its industry or profession in dealing with mutual~~
 22-3 ~~business or professional problems and in promoting their common~~
 22-4 ~~interest.~~

22-5 ~~[(b) A person may not be a member of the board or may not be~~
 22-6 ~~the director in a "bona fide executive, administrative, or~~
 22-7 ~~professional capacity," as that phrase is used for purposes of~~
 22-8 ~~establishing an exemption to the overtime provisions of the federal~~
 22-9 ~~Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),~~
 22-10 ~~if:~~

22-11 ~~[(1) the person is an officer, employee, or paid~~
 22-12 ~~consultant of a Texas trade association in the field of~~
 22-13 ~~guardianship; or~~

22-14 ~~[(2) the person's spouse is an officer, manager, or~~
 22-15 ~~paid consultant of a Texas trade association in the field of~~
 22-16 ~~guardianship.~~

22-17 ~~[(c) A person may not be a member of the board if the person~~
 22-18 ~~is required to register as a lobbyist under Chapter 305 because of~~
 22-19 ~~the person's activities for compensation on behalf of a profession~~
 22-20 ~~related to the operation of the board.~~

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

22-23 ~~[(1) does not have at the time of appointment the~~
 22-24 ~~qualifications required by Section 111.011;~~

22-25 ~~[(2) does not maintain during service on the board the~~
 22-26 ~~qualifications required by Section 111.011;~~

22-27 ~~[(3) is ineligible for membership under Section~~
 22-28 ~~111.013 or 111.014;~~

22-29 ~~[(4) cannot, because of illness or disability,~~
 22-30 ~~discharge the member's duties for a substantial part of the member's~~
 22-31 ~~term; or~~

22-32 ~~[(5) is absent from more than half of the regularly~~
 22-33 ~~scheduled board meetings that the member is eligible to attend~~
 22-34 ~~during a calendar year without an excuse approved by a majority vote~~
 22-35 ~~of the board.~~

22-36 ~~[(b) The validity of an action of the board is not affected~~
 22-37 ~~by the fact that it is taken when a ground for removal of a board~~
 22-38 ~~member exists.~~

22-39 ~~[(c) If the director has knowledge that a potential ground~~
 22-40 ~~for removal exists, the director shall notify the presiding officer~~
 22-41 ~~of the board of the potential ground. The presiding officer shall~~
 22-42 ~~then notify the chief justice of the supreme court that a potential~~
 22-43 ~~ground for removal exists. If the potential ground for removal~~
 22-44 ~~involves the presiding officer, the director shall notify the next~~
 22-45 ~~highest ranking officer of the board, who shall then notify the~~
 22-46 ~~chief justice of the supreme court that a potential ground for~~
 22-47 ~~removal exists.~~

22-48 ~~[Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) The board~~
 22-49 ~~is charged with the executive functions necessary to carry out the~~
 22-50 ~~purposes of this chapter under rules adopted by the supreme court.~~

22-51 ~~[(b) The board shall:~~

22-52 ~~[(1) administer and enforce this chapter;~~

22-53 ~~[(2) develop and recommend proposed rules and~~
 22-54 ~~procedures to the supreme court as necessary to implement this~~
 22-55 ~~chapter;~~

22-56 ~~[(3) set the amount of each fee prescribed by Section~~
 22-57 ~~111.042, subject to the approval of the supreme court;~~

22-58 ~~[(4) establish the qualifications for obtaining:~~

22-59 ~~[(A) certification or recertification under~~
 22-60 ~~Section 111.042; and~~

22-61 ~~[(B) provisional certification under Section~~
 22-62 ~~111.0421;~~

22-63 ~~[(5) issue certificates to:~~

22-64 ~~[(A) individuals who meet the certification~~
 22-65 ~~requirements of Section 111.042; and~~

22-66 ~~[(B) individuals who meet the provisional~~
 22-67 ~~certification requirements of Section 111.0421; and~~

22-68 ~~[(6) perform any other duty required by this chapter~~
 22-69 ~~or other law.~~

23-1 ~~[(c) The board may appoint any necessary or proper~~
 23-2 ~~subcommittee.~~

23-3 ~~[(d) The board shall maintain:~~
 23-4 ~~[(1) a complete record of each board proceeding; and~~
 23-5 ~~[(2) a complete record of each certification,~~
 23-6 ~~including a provisional certificate, issued, renewed, suspended,~~
 23-7 ~~or revoked under this chapter.]~~

23-8 ~~Sec. 155.052 [111.017]. TRAINING. (a) A person who is~~
 23-9 ~~appointed to and qualifies for office as a member of the advisory~~
 23-10 ~~board may not vote, deliberate, or be counted as a member in~~
 23-11 ~~attendance at a meeting of the advisory board until the person~~
 23-12 ~~completes a training program that complies with this section.~~

23-13 ~~(b) The training program must provide the person with~~
 23-14 ~~information regarding:~~

23-15 ~~(1) this chapter;~~
 23-16 ~~(2) the role and functions of the advisory board; and~~
 23-17 ~~(3) [the current budget for the board;~~
 23-18 ~~(4) the results of the most recent formal audit of the~~
 23-19 ~~board; and~~

23-20 ~~[(5)] any applicable ethics policies adopted by the~~
 23-21 ~~commission [board].~~

23-22 ~~[Sec. 111.018. USE OF TECHNOLOGY. The Office of Court~~
 23-23 ~~Administration shall research and propose appropriate~~
 23-24 ~~technological solutions to improve the board's ability to perform~~
 23-25 ~~its functions. The technological solutions must:~~

23-26 ~~[(1) ensure that the public is able to easily find~~
 23-27 ~~information about the board on the Internet;~~

23-28 ~~[(2) ensure that persons who want to use the board's~~
 23-29 ~~services are able to:~~

23-30 ~~[(A) interact with the board through the~~
 23-31 ~~Internet; and~~

23-32 ~~[(B) access any service that can be provided~~
 23-33 ~~effectively through the Internet; and~~

23-34 ~~[(3) be cost-effective and developed through the~~
 23-35 ~~board's planning processes.~~

23-36 ~~[Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.~~
 23-37 ~~(a) The board shall develop and implement a policy to encourage~~
 23-38 ~~the use of appropriate alternative dispute resolution procedures to~~
 23-39 ~~assist in the resolution of internal and external disputes under~~
 23-40 ~~the board's jurisdiction.~~

23-41 ~~[(b) The procedures relating to alternative dispute~~
 23-42 ~~resolution under this section must conform, to the extent possible,~~
 23-43 ~~to any model guidelines issued by the State Office of~~
 23-44 ~~Administrative Hearings for the use of alternative dispute~~
 23-45 ~~resolution by state agencies.~~

23-46 ~~[Sec. 111.020. PUBLIC ACCESS. The board shall develop and~~
 23-47 ~~implement policies that provide the public with a reasonable~~
 23-48 ~~opportunity to appear before the board and to speak on any issue~~
 23-49 ~~under the jurisdiction of the board.~~

23-50 ~~[Sec. 111.021. DIRECTOR. (a) The administrative director~~
 23-51 ~~shall employ a director from a list of candidates submitted by the~~
 23-52 ~~board. The administrative director may request an additional list~~
 23-53 ~~of candidates if the administrative director does not select any of~~
 23-54 ~~the initial candidates recommended by the board.~~

23-55 ~~[(b) The list may contain the hiring preference of the~~
 23-56 ~~board.~~

23-57 ~~[(c) The director is the administrative officer of the board~~
 23-58 ~~and is charged with carrying out the duties and functions conferred~~
 23-59 ~~on the director by the board, this subchapter, and other law.~~

23-60 ~~[Sec. 111.022. DIVISION OF RESPONSIBILITIES. The board~~
 23-61 ~~shall develop and implement policies that clearly separate the~~
 23-62 ~~policy-making responsibilities of the board and the management~~
 23-63 ~~responsibilities of the director.~~

23-64 ~~[Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT~~
 23-65 ~~INFORMATION. The director shall provide to members of the board, as~~
 23-66 ~~often as necessary, information regarding the requirements for~~
 23-67 ~~office under this chapter, including information regarding a~~
 23-68 ~~person's responsibilities under applicable laws relating to~~
 23-69 ~~standards of conduct for state officers.]~~

SUBCHAPTER C. REGULATION OF CERTAIN GUARDIANS

24-1 Sec. 155.101 [~~111.041~~]. STANDARDS FOR CERTAIN
 24-2 GUARDIANSHIPS AND ALTERNATIVES TO GUARDIANSHIP. (a) The
 24-3 commission [~~board~~] shall adopt minimum standards for:

24-4 (1) the provision of guardianship services or other
 24-5 similar but less restrictive types of assistance or services by:

24-6 (A) guardianship programs; and
 24-7 (B) private professional guardians; and
 24-8 (2) the provision of guardianship services by the
 24-9 Department of Aging and Disability Services.

24-10 (b) The commission [~~board~~] shall design the standards to
 24-11 protect the interests of an incapacitated person or other person
 24-12 needing assistance making decisions concerning the person's own
 24-13 welfare or financial affairs.

24-14 Sec. 155.102 [~~111.042~~]. CERTIFICATION REQUIRED FOR CERTAIN
 24-15 GUARDIANS. (a) To provide guardianship services in this state,
 24-16 the following individuals must hold a certificate issued under this
 24-17 section:

24-18 (1) an individual who is a private professional
 24-19 guardian;

24-20 (2) an individual who will provide those services to a
 24-21 ward of a private professional guardian on the guardian's behalf;
 24-22 and

24-23 (3) an individual, other than a volunteer, who will
 24-24 provide those services or other services under Section 161.114,
 24-25 Human Resources Code, to a ward of a guardianship program or the
 24-26 Department of Aging and Disability Services on the program's or
 24-27 department's behalf.

24-28 (b) An applicant for a certificate under this section must:

24-29 (1) apply to the commission [~~board~~] on a form
 24-30 prescribed by the commission [~~board~~]; and

24-31 (2) submit with the application a nonrefundable
 24-32 application fee in an amount determined by the commission [~~board~~],
 24-33 subject to the approval of the supreme court.

24-34 (c) The supreme court may adopt rules and procedures for
 24-35 issuing a certificate and for renewing, suspending, or revoking a
 24-36 certificate issued under this section. Any rules adopted by the
 24-37 supreme court under this section must:

24-38 (1) ensure compliance with the standards adopted under
 24-39 Section 155.101 [~~111.041~~];

24-40 (2) provide that the commission [~~board~~] establish
 24-41 qualifications for obtaining and maintaining certification;

24-42 (3) provide that the commission [~~board~~] issue
 24-43 certificates under this section;

24-44 (4) provide that a certificate expires on the second
 24-45 anniversary of the date the certificate is issued;

24-46 (5) prescribe procedures for accepting complaints and
 24-47 conducting investigations of alleged violations of the minimum
 24-48 standards adopted under Section 155.101 [~~111.041~~] or other terms of
 24-49 the certification by certificate holders; and

24-50 (6) prescribe procedures by which the commission
 24-51 [~~board~~], after notice and hearing, may suspend or revoke the
 24-52 certificate of a holder who fails to substantially comply with
 24-53 appropriate standards or other terms of the certification.

24-54 (d) If the requirements for issuing a certificate under this
 24-55 section include passage of an examination covering guardianship
 24-56 education requirements:

24-57 (1) the commission [~~board~~] shall develop and the
 24-58 director shall administer the examination; or

24-59 (2) the commission [~~board~~] shall direct the director
 24-60 to contract with another person or entity the commission [~~board~~]
 24-61 determines has the expertise and resources to develop and
 24-62 administer the examination.

24-63 (e) In lieu of the certification requirements imposed under
 24-64 this section, the commission [~~board~~] may issue a certificate to an
 24-65 individual to engage in business as a guardian or to provide
 24-66 guardianship services in this state if the individual:

24-67 (1) submits an application to the commission [~~board~~]
 24-68 in the form prescribed by the commission [~~board~~];

25-1 (2) pays a fee in a reasonable amount determined by the
 25-2 commission [board], subject to the approval of the supreme court;
 25-3 (3) is certified, registered, or licensed as a
 25-4 guardian by a national organization or association the commission
 25-5 [board] determines has requirements at least as stringent as those
 25-6 prescribed by the commission [board] under this subchapter; and
 25-7 (4) is in good standing with the organization or
 25-8 association with whom the person is licensed, certified, or
 25-9 registered.

25-10 (f) An employee of the Department of Aging and Disability
 25-11 Services who is applying for a certificate under this section to
 25-12 provide guardianship services to a ward of the department is exempt
 25-13 from payment of an application fee required by this section.

25-14 (g) An application fee or other fee collected under this
 25-15 section shall be deposited to the credit of the guardianship
 25-16 certification account in the general revenue fund and may be
 25-17 appropriated only to the office [Office of Court Administration]
 25-18 for the administration and enforcement of this chapter.

25-19 ~~[(h) The Texas Department of Licensing and Regulation shall~~
 25-20 ~~advise and assist the board as necessary in administering the~~
 25-21 ~~certification process established under this section.]~~

25-22 Sec. 155.103 [~~111.042~~]. PROVISIONAL CERTIFICATE.

25-23 (a) Notwithstanding Section 155.102(a) [~~111.042(a)~~], the
 25-24 commission [board] may issue a provisional certificate to an
 25-25 individual who:

25-26 (1) does not meet the qualifications for obtaining
 25-27 certification under Section 155.102 [~~111.042~~]; and

25-28 (2) possesses the qualifications for provisional
 25-29 certification required by rules adopted by the supreme court.

25-30 (b) An individual who holds a provisional certificate may
 25-31 provide guardianship services in this state only under the
 25-32 supervision of an individual certified under Section 155.102
 25-33 [~~111.042~~].

25-34 (c) The supreme court may adopt rules and procedures for
 25-35 issuing a provisional certificate under this section that, at a
 25-36 minimum, must:

25-37 (1) ensure compliance with the standards adopted under
 25-38 Section 155.101 [~~111.041~~]; and

25-39 (2) provide that the commission [board] establishes
 25-40 qualifications for obtaining and maintaining the certification.

25-41 Sec. 155.104 [~~111.043~~]. INFORMATION FROM PRIVATE
 25-42 PROFESSIONAL GUARDIANS. In addition to the information submitted
 25-43 under Section 697(e), Texas Probate Code, the director may require
 25-44 a private professional guardian or a person who represents or plans
 25-45 to represent the interests of a ward as a guardian on behalf of the
 25-46 private professional guardian to submit information considered
 25-47 necessary to monitor the person's compliance with the applicable
 25-48 standards adopted under Section 155.101 [~~111.041~~] or with the
 25-49 certification requirements of Section 155.102 [~~111.042~~].

25-50 Sec. 155.105 [~~111.044~~]. ANNUAL DISCLOSURE. (a) Not later
 25-51 than January 31 of each year, each guardianship program shall
 25-52 provide to the commission [board] a report containing for the
 25-53 preceding year:

25-54 (1) the number of wards served by the guardianship
 25-55 program reported by county in which the application to create a
 25-56 guardianship for the ward is filed and the total number of wards
 25-57 served by the guardianship program;

25-58 (2) the name, business address, and business telephone
 25-59 number of each individual employed by or volunteering or
 25-60 contracting with the guardianship program to provide guardianship
 25-61 services to a ward or proposed ward of the program;

25-62 (3) the name of each county in which an individual
 25-63 described by Subdivision (2) provides or is authorized to provide
 25-64 guardianship services;

25-65 (4) the total amount of money received from this state
 25-66 for the provision of guardianship services; and

25-67 (5) the amount of money received from any other public
 25-68 source, including a county or the federal government, for the
 25-69 provision of guardianship services, reported by source, and the

26-1 total amount of money received from those public sources.

26-2 (b) Not later than January 31 of each year, each private
26-3 professional guardian shall provide to the commission [~~board~~] a
26-4 report containing for the preceding year:

26-5 (1) the number of wards served by the private
26-6 professional guardian reported by county in which the application
26-7 to create a guardianship for the ward is filed and the total number
26-8 of wards served by the private professional guardian;

26-9 (2) the name, business address, and business telephone
26-10 number of each individual who provides guardianship services to a
26-11 ward of the private professional guardian on behalf of the private
26-12 professional guardian;

26-13 (3) the total amount of money received from this state
26-14 for the provision of guardianship services; and

26-15 (4) the amount of money received from any other public
26-16 source, including a county or the federal government, for the
26-17 provision of guardianship services, reported by source, and the
26-18 total amount of money received from those public sources.

26-19 (c) A private professional guardian shall submit with the
26-20 report required under Subsection (b) a copy of the guardian's
26-21 application for a certificate of registration required by Section
26-22 697(a), Texas Probate Code.

26-23 SECTION 1.06. Subtitle K, Title 2, Government Code, as
26-24 added by this Act, is amended by adding Chapter 156 to read as
26-25 follows:

26-26 CHAPTER 156. PROCESS SERVER CERTIFICATION

26-27 SUBCHAPTER A. GENERAL PROVISIONS

26-28 Sec. 156.001. DEFINITION. In this chapter, "advisory
26-29 board" means the Process Server Certification Advisory Board.

26-30 SUBCHAPTER B. PROCESS SERVER CERTIFICATION ADVISORY BOARD

26-31 Sec. 156.051. ORGANIZATION. (a) The Process Server
26-32 Certification Advisory Board is established as an advisory board to
26-33 the commission. The advisory board is composed of at least five
26-34 members appointed by the supreme court.

26-35 (b) Appointments to the advisory board shall be made without
26-36 regard to the race, color, disability, sex, religion, age, or
26-37 national origin of the appointees.

26-38 (c) The supreme court shall appoint a presiding officer of
26-39 the advisory board from among the advisory board members to serve
26-40 for two years.

26-41 (d) A majority of the advisory board constitutes a quorum.

26-42 (e) Advisory board members serve staggered six-year terms
26-43 as ordered by the supreme court.

26-44 (f) If a vacancy occurs on the advisory board, the supreme
26-45 court shall appoint a person to serve the remainder of the term.

26-46 (g) Advisory board members serve without compensation but
26-47 are entitled to reimbursement for travel expenses and other actual
26-48 and necessary expenses incurred in the performance of official
26-49 advisory board duties, as provided by the General Appropriations
26-50 Act.

26-51 SECTION 1.07. Section 51.008, Government Code, is
26-52 transferred to Subchapter B, Chapter 156, Government Code, as added
26-53 by this Act, redesignated as Section 156.052, Government Code, and
26-54 amended to read as follows:

26-55 Sec. 156.052 [51.008]. FEES FOR PROCESS SERVER
26-56 CERTIFICATION. (a) The commission [~~process server review board~~
26-57 ~~established by supreme court order~~] may recommend to the supreme
26-58 court the fees to be charged for process server certification and
26-59 renewal of certification. The supreme court must approve the fees
26-60 recommended by the commission [~~process server review board~~] before
26-61 the fees may be collected.

26-62 (b) If a certification is issued or renewed for a term that
26-63 is less than the certification period provided by supreme court
26-64 rule, the fee for the certification shall be prorated so that the
26-65 process server pays only that portion of the fee that is allocable
26-66 to the period during which the certification is valid. On renewal
26-67 of the certification on the new expiration date, the process server
26-68 must pay the entire certification renewal fee.

26-69 (c) The office [~~Office of Court Administration of the Texas~~

27-1 ~~Judicial System]~~ may collect the fees recommended by the commission
 27-2 ~~[process server review board]~~ and approved by the supreme court.
 27-3 Fees collected under this section shall be sent to the comptroller
 27-4 for deposit to the credit of the general revenue fund.

27-5 (d) Fees collected under this section may be appropriated to
 27-6 the office ~~[Office of Court Administration of the Texas Judicial~~
 27-7 ~~System]~~ for the support of regulatory programs for process servers,
 27-8 guardians, and court reporters.

27-9 SECTION 1.08. Subchapter C, Chapter 57, Government Code, is
 27-10 transferred to Subtitle K, Title 2, Government Code, as added by
 27-11 this Act, redesignated as Chapter 157, Government Code, and amended
 27-12 to read as follows:

27-13 CHAPTER 157 [SUBCHAPTER C]. COURT INTERPRETERS LICENSING [FOR
 27-14 INDIVIDUALS WHO DO NOT COMMUNICATE IN ENGLISH]

27-15 SUBCHAPTER A. GENERAL PROVISIONS

27-16 Sec. 157.001 [57.041]. DEFINITIONS. In this chapter
 27-17 ~~[subchapter]:~~

27-18 (1) "Advisory board" ["Board"] means the licensed
 27-19 court interpreter advisory board.

27-20 (2) ~~["Commission" means the Texas Commission of~~
 27-21 ~~Licensing and Regulation.~~

27-22 ~~[(4) "Department" means the Texas Department of~~
 27-23 ~~Licensing and Regulation.~~

27-24 ~~[(4-a) "Executive director" means the executive~~
 27-25 ~~director of the department.~~

27-26 ~~[(5)] "Licensed court interpreter" means an~~
 27-27 individual licensed under this chapter by the commission to
 27-28 interpret court proceedings for an individual who can hear but who
 27-29 does not comprehend English or communicate in English [has the
 27-30 meaning assigned by Section 57.001].

27-31 SUBCHAPTER B. LICENSED COURT INTERPRETER ADVISORY BOARD

27-32 Sec. 157.051 [57.042]. LICENSED COURT INTERPRETER ADVISORY
 27-33 BOARD. (a) The licensed court interpreter advisory board is
 27-34 established as an advisory board to the commission. The advisory
 27-35 board is composed of at least five [nine] members appointed by the
 27-36 supreme court [presiding officer of the commission, with the
 27-37 commission's approval]. Members of the advisory board serve
 27-38 staggered six-year terms as ordered by the supreme court [with the
 27-39 terms of one-third of the members expiring on February 1 of each
 27-40 odd-numbered year].

27-41 (b) ~~[The advisory board is composed of:~~

27-42 ~~[(1) an active district, county, or statutory county~~
 27-43 ~~court judge who has been a judge for at least the three years~~
 27-44 ~~preceding the date of appointment;~~

27-45 ~~[(2) an active court administrator who has been a~~
 27-46 ~~court administrator for at least the three years preceding the date~~
 27-47 ~~of appointment;~~

27-48 ~~[(3) an active attorney who has been a practicing~~
 27-49 ~~member of the state bar for at least the three years preceding the~~
 27-50 ~~date of appointment;~~

27-51 ~~[(4) three active licensed court interpreters; and~~

27-52 ~~[(5) three public members who are residents of this~~
 27-53 ~~state.~~

27-54 ~~[(c)]~~ The supreme court ~~[presiding officer of the~~
 27-55 ~~commission, with the commission's approval,]~~ shall select from the
 27-56 advisory board members a presiding officer of the advisory board to
 27-57 serve for two years.

27-58 (c) ~~[(d)]~~ Members shall be appointed without regard to
 27-59 race, color, disability, sex, religion, age, or national [ethnic]
 27-60 origin. The membership of the advisory board must reflect the
 27-61 geographical and cultural diversity of the state.

27-62 (d) ~~[(e)]~~ The supreme court ~~[presiding officer of the~~
 27-63 ~~commission, with the commission's approval,]~~ may remove a member of
 27-64 the advisory board for inefficiency or neglect of duty in office[.
 27-65 If a vacancy occurs on the board, the presiding officer of the
 27-66 commission, with the commission's approval, shall appoint a member
 27-67 who represents the same interests as the former member to serve the
 27-68 unexpired term].

27-69 (e) ~~[(f)]~~ The board shall meet at least twice a year at the

28-1 ~~call of the presiding officer at a place designated by the presiding~~
 28-2 ~~officer.] A majority of the advisory board constitutes a quorum.~~

28-3 (f) ~~[(g)]~~ The advisory board shall advise the commission
 28-4 regarding the adoption of rules and the design of a licensing
 28-5 examination.

28-6 (g) An advisory ~~[(h) A]~~ board member is entitled to
 28-7 reimbursement for travel expenses and other actual and necessary
 28-8 expenses incurred in attending meetings of the advisory board in
 28-9 the amount of the per diem set by the General Appropriations Act. A
 28-10 member may not receive compensation for the member's services as an
 28-11 advisory ~~[a]~~ board member. ~~[Service on the board by a member~~
 28-12 ~~appointed under Subsection (b)(1) is an additional duty required by~~
 28-13 ~~the member's other official capacity, and that service on the board~~
 28-14 ~~is not a dual office holding.]~~

28-15 SUBCHAPTER C. LICENSE ISSUANCE

28-16 Sec. 157.101 ~~[57.043]~~. ISSUANCE OF LICENSE; TERM. (a) The
 28-17 ~~[executive]~~ director shall issue a court interpreter license to an
 28-18 applicant who:

28-19 (1) can interpret for an individual who can hear but
 28-20 who does not comprehend English or communicate in English;

28-21 (2) passes the appropriate examination prescribed by
 28-22 the commission ~~[executive director]~~ not earlier than two years
 28-23 before the date the ~~[executive]~~ director receives the applicant's
 28-24 application for a license; and

28-25 (3) possesses the other qualifications for the license
 28-26 required by this chapter ~~[subchapter]~~ or by rules adopted under
 28-27 this chapter ~~[subchapter]~~.

28-28 (b) The commission shall adopt rules relating to licensing
 28-29 under this chapter. The rules must be approved by the supreme
 28-30 court. The ~~[subchapter and the executive]~~ director shall prescribe
 28-31 all forms required under this chapter ~~[subchapter]~~.

28-32 (c) A license issued under this chapter ~~[subchapter]~~ is
 28-33 valid for one year from the date of issuance.

28-34 (d) A license issued under this chapter ~~[subchapter]~~ must
 28-35 include at least one of the following designations:

28-36 (1) a basic designation that permits the interpreter
 28-37 to interpret court proceedings in justice courts and municipal
 28-38 courts that are not municipal courts of record, other than a
 28-39 proceeding before the court in which the judge is acting as a
 28-40 magistrate; or

28-41 (2) a master designation that permits the interpreter
 28-42 to interpret court proceedings in all courts in this state,
 28-43 including justice courts and municipal courts described by
 28-44 Subdivision (1).

28-45 (e) In adopting rules relating to licensing under this
 28-46 subchapter, the commission shall, after consulting with the
 28-47 advisory board, prescribe the minimum score an individual must
 28-48 achieve on an examination to receive a license that includes a basic
 28-49 designation under Subsection (d) and the minimum score an
 28-50 individual must achieve to receive a license that includes a master
 28-51 designation under that subsection.

28-52 Sec. 157.102 ~~[57.044]~~. COURT INTERPRETER LICENSE. To
 28-53 qualify for a court interpreter license under this chapter
 28-54 ~~[subchapter]~~, an individual must apply on a form prescribed by the
 28-55 commission ~~[executive director]~~ and demonstrate, in the manner
 28-56 required by the ~~[executive]~~ director, reasonable proficiency in
 28-57 interpreting English and court proceedings for individuals who can
 28-58 hear but who do not comprehend English or communicate in English.

28-59 ~~[Sec. 57.045. FEES. The commission by rule shall set~~
 28-60 ~~license and examination fees under this subchapter.]~~

28-61 Sec. 157.103 ~~[57.046]~~. EXAMINATIONS. (a) The ~~[executive]~~
 28-62 director shall prepare examinations under this chapter
 28-63 ~~[subchapter]~~ that test an applicant's knowledge, skill, and
 28-64 efficiency in interpreting under this chapter ~~[subchapter]~~. The
 28-65 same examinations must be used for issuing a license that includes a
 28-66 basic designation or master designation as described by Section
 28-67 157.101(d) ~~[57.043(d)]~~.

28-68 (b) An individual who fails an examination may apply for
 28-69 reexamination at a scheduled examination held at least six months

29-1 after the date the individual failed the original examination.

29-2 (c) Examinations shall be offered in the state at least
29-3 twice a year at times and places designated by the [~~executive~~]
29-4 director.

29-5 Sec. 157.104 [~~57.047~~]. COMMISSION [~~DEPARTMENT~~] DUTIES;
29-6 INSPECTIONS. (a) The commission [~~executive director~~] shall
29-7 enforce this chapter [~~subchapter~~].

29-8 (b) The commission [~~department~~] shall investigate
29-9 allegations of violations of this chapter [~~subchapter~~].

29-10 Sec. 157.105 [~~57.048~~]. SUSPENSION AND REVOCATION OF
29-11 LICENSES; REISSUANCE. (a) After a hearing, the commission shall
29-12 suspend or revoke a court interpreter license on a finding that the
29-13 individual:

29-14 (1) made a material misstatement in an application for
29-15 a license;

29-16 (2) disregarded or violated this chapter [~~subchapter~~]
29-17 or a rule adopted under this chapter [~~subchapter~~]; or

29-18 (3) engaged in dishonorable or unethical conduct
29-19 likely to deceive, defraud, or harm the public or a person for whom
29-20 the interpreter interprets.

29-21 (b) The commission [~~executive director~~] may reissue a
29-22 license to an individual whose license has been revoked if the
29-23 individual applies in writing to the department and shows good
29-24 cause to justify reissuance of the license.

29-25 Sec. 157.106 [~~57.049~~]. PROHIBITED ACTS. A person may not
29-26 advertise, represent to be, or act as a licensed court interpreter
29-27 unless the person holds an appropriate license under this chapter
29-28 [~~subchapter~~].

29-29 Sec. 157.107 [~~57.050~~]. OFFENSE; ADMINISTRATIVE PENALTY.
29-30 (a) A person commits an offense if the person violates this
29-31 chapter [~~subchapter~~] or a rule adopted under this chapter
29-32 [~~subchapter~~]. An offense under this subsection is a Class A
29-33 misdemeanor.

29-34 (b) A person who violates this chapter [~~subchapter~~] or a
29-35 rule adopted under this chapter [~~subchapter~~] is subject to an
29-36 administrative penalty assessed by the commission as provided by
29-37 Chapter 153 [~~Subchapter F, Chapter 51, Occupations Code~~].

29-38 [~~Sec. 57.051. SUNSET. The licensed court interpreter
29-39 advisory board is subject to Chapter 325, Government Code (Texas
29-40 Sunset Act). Unless continued in existence as provided by that
29-41 chapter, the board is abolished and this subchapter expires
29-42 September 1, 2017.~~]

ARTICLE 2. CONFORMING CHANGES

29-44 SECTION 2.01. Subsection (a-1), Article 38.30, Code of
29-45 Criminal Procedure, is amended to read as follows:

29-46 (a-1) A qualified telephone interpreter may be sworn to
29-47 interpret for the person in the trial of a Class C misdemeanor or a
29-48 proceeding before a magistrate if an interpreter is not available
29-49 to appear in person before the court or if the only available
29-50 interpreter is not considered to possess adequate interpreting
29-51 skills for the particular situation or is unfamiliar with the use of
29-52 slang. In this subsection, "qualified telephone interpreter" means
29-53 a telephone service that employs:

29-54 (1) licensed court interpreters as defined by Section
29-55 157.001 [~~57.001~~], Government Code; or

29-56 (2) federally certified court interpreters.

29-57 SECTION 2.02. Section 61.0513, Education Code, is amended
29-58 to read as follows:

29-59 Sec. 61.0513. COURT REPORTER PROGRAMS. The board may not
29-60 certify a court reporter program under Section 61.051(f) [~~of this
29-61 code~~] unless the program has received approval from the Judicial
29-62 Branch [~~Court Reporters~~] Certification Commission [~~Board~~].

29-63 SECTION 2.03. Subdivision (1), Subsection (b), Section
29-64 132.055, Education Code, is amended to read as follows:

29-65 (1) The programs, curriculum, and instruction are of
29-66 such quality, content, and length as may reasonably and adequately
29-67 achieve the stated objective for which the programs, curriculum, or
29-68 instruction is offered. Before a career school or college conducts
29-69 a program of instruction in court reporting, the school or college

30-1 must produce evidence that the school or college has obtained
 30-2 approval for the curriculum from the Judicial Branch [Court
 30-3 Reporters] Certification Commission [Board].

30-4 SECTION 2.04. Section 1002.014, Estates Code, as effective
 30-5 January 1, 2014, is amended to read as follows:

30-6 Sec. 1002.014. GUARDIANSHIP CERTIFICATION PROGRAM OF THE
 30-7 JUDICIAL BRANCH CERTIFICATION COMMISSION [~~BOARD~~]. "Guardianship
 30-8 certification program of the Judicial Branch Certification
 30-9 Commission" [~~"Guardianship Certification Board"~~] means the program
 30-10 [~~Guardianship Certification Board~~] established under Chapter 155
 30-11 [~~111~~], Government Code.

30-12 SECTION 2.05. Section 1002.016, Estates Code, as effective
 30-13 January 1, 2014, is amended to read as follows:

30-14 Sec. 1002.016. GUARDIANSHIP PROGRAM. "Guardianship
 30-15 program" has the meaning assigned by Section 155.001 [~~111.001~~],
 30-16 Government Code.

30-17 SECTION 2.06. Section 1002.025, Estates Code, as effective
 30-18 January 1, 2014, is amended to read as follows:

30-19 Sec. 1002.025. PRIVATE PROFESSIONAL GUARDIAN. "Private
 30-20 professional guardian" has the meaning assigned by Section 155.001
 30-21 [~~111.001~~], Government Code.

30-22 SECTION 2.07. Subsection (b), Section 1101.001, Estates
 30-23 Code, as effective January 1, 2014, is amended to read as follows:

30-24 (b) The application must be sworn to by the applicant and
 30-25 state:

30-26 (1) the proposed ward's name, sex, date of birth, and
 30-27 address;

30-28 (2) the name, relationship, and address of the person
 30-29 the applicant seeks to have appointed as guardian;

30-30 (3) whether guardianship of the person or estate, or
 30-31 both, is sought;

30-32 (4) the nature and degree of the alleged incapacity,
 30-33 the specific areas of protection and assistance requested, and the
 30-34 limitation or termination of rights requested to be included in the
 30-35 court's order of appointment, including a termination of:

30-36 (A) the right of a proposed ward who is 18 years
 30-37 of age or older to vote in a public election; and

30-38 (B) the proposed ward's eligibility to hold or
 30-39 obtain a license to operate a motor vehicle under Chapter 521,
 30-40 Transportation Code;

30-41 (5) the facts requiring the appointment of a guardian;

30-42 (6) the interest of the applicant in the appointment
 30-43 of a guardian;

30-44 (7) the nature and description of any kind of
 30-45 guardianship existing for the proposed ward in any other state;

30-46 (8) the name and address of any person or institution
 30-47 having the care and custody of the proposed ward;

30-48 (9) the approximate value and description of the
 30-49 proposed ward's property, including any compensation, pension,
 30-50 insurance, or allowance to which the proposed ward may be entitled;

30-51 (10) the name and address of any person whom the
 30-52 applicant knows to hold a power of attorney signed by the proposed
 30-53 ward and a description of the type of power of attorney;

30-54 (11) for a proposed ward who is a minor, the following
 30-55 information if known by the applicant:

30-56 (A) the name of each of the proposed ward's
 30-57 parents and either the parent's address or that the parent is
 30-58 deceased;

30-59 (B) the name and age of each of the proposed
 30-60 ward's siblings, if any, and either the sibling's address or that
 30-61 the sibling is deceased; and

30-62 (C) if each of the proposed ward's parents and
 30-63 siblings are deceased, the names and addresses of the proposed
 30-64 ward's next of kin who are adults;

30-65 (12) for a proposed ward who is a minor, whether the
 30-66 minor was the subject of a legal or conservatorship proceeding in
 30-67 the preceding two years and, if so:

30-68 (A) the court involved;

30-69 (B) the nature of the proceeding; and

31-1 (C) any final disposition of the proceeding;
31-2 (13) for a proposed ward who is an adult, the following
31-3 information if known by the applicant:
31-4 (A) the name of the proposed ward's spouse, if
31-5 any, and either the spouse's address or that the spouse is deceased;
31-6 (B) the name of each of the proposed ward's
31-7 parents and either the parent's address or that the parent is
31-8 deceased;
31-9 (C) the name and age of each of the proposed
31-10 ward's siblings, if any, and either the sibling's address or that
31-11 the sibling is deceased;
31-12 (D) the name and age of each of the proposed
31-13 ward's children, if any, and either the child's address or that the
31-14 child is deceased; and
31-15 (E) if there is no living spouse, parent, adult
31-16 sibling, or adult child of the proposed ward, the names and
31-17 addresses of the proposed ward's next of kin who are adults;
31-18 (14) facts showing that the court has venue of the
31-19 proceeding; and
31-20 (15) if applicable, that the person whom the applicant
31-21 seeks to have appointed as a guardian is a private professional
31-22 guardian who is certified under Subchapter C, Chapter 155 [~~111~~],
31-23 Government Code, and has complied with the requirements of
31-24 Subchapter G, Chapter 1104.
31-25 SECTION 2.08. Subsection (a), Section 1104.251, Estates
31-26 Code, as effective January 1, 2014, is amended to read as follows:
31-27 (a) An individual must be certified under Subchapter C,
31-28 Chapter 155 [~~111~~], Government Code, if the individual:
31-29 (1) is a private professional guardian;
31-30 (2) will represent the interests of a ward as a
31-31 guardian on behalf of a private professional guardian;
31-32 (3) is providing guardianship services to a ward of a
31-33 guardianship program on the program's behalf, except as provided by
31-34 Section 1104.254; or
31-35 (4) is an employee of the Department of Aging and
31-36 Disability Services providing guardianship services to a ward of
31-37 the department.
31-38 SECTION 2.09. Section 1104.252, Estates Code, as effective
31-39 January 1, 2014, is amended to read as follows:
31-40 Sec. 1104.252. EFFECT OF PROVISIONAL CERTIFICATE. For
31-41 purposes of this subchapter, a person who holds a provisional
31-42 certificate issued under Section 155.103 [~~111.0421~~], Government
31-43 Code, is considered to be certified.
31-44 SECTION 2.10. Section 1104.253, Estates Code, as effective
31-45 January 1, 2014, is amended to read as follows:
31-46 Sec. 1104.253. EXCEPTION FOR FAMILY MEMBERS AND FRIENDS. A
31-47 family member or friend of an incapacitated person is not required
31-48 to be certified under Subchapter C, Chapter 155 [~~111~~], Government
31-49 Code, or any other law to serve as the person's guardian.
31-50 SECTION 2.11. Section 1104.255, Estates Code, as effective
31-51 January 1, 2014, is amended to read as follows:
31-52 Sec. 1104.255. EXPIRATION OF CERTIFICATION. A person whose
31-53 certification under Subchapter C, Chapter 155 [~~111~~], Government
31-54 Code, has expired must obtain a new certification under that
31-55 subchapter to provide or continue providing guardianship services
31-56 to a ward or incapacitated person under this title.
31-57 SECTION 2.12. Section 1104.256, Estates Code, as effective
31-58 January 1, 2014, is amended to read as follows:
31-59 Sec. 1104.256. FAILURE TO COMPLY; COURT'S DUTY TO NOTIFY.
31-60 The court shall notify the guardianship certification program of
31-61 the Judicial Branch Certification Commission [~~Guardianship~~
31-62 ~~Certification Board~~] if the court becomes aware of a person who is
31-63 not complying with:
31-64 (1) the terms of a certification issued under
31-65 Subchapter C, Chapter 155 [~~111~~], Government Code; or
31-66 (2) the standards and rules adopted under that
31-67 subchapter.
31-68 SECTION 2.13. Section 1104.257, Estates Code, as effective
31-69 January 1, 2014, is amended to read as follows:

32-1 Sec. 1104.257. INFORMATION REGARDING SERVICES PROVIDED BY
 32-2 GUARDIANSHIP PROGRAM. Not later than January 31 of each year, each
 32-3 guardianship program operating in a county shall submit to the
 32-4 county clerk a copy of the report submitted to the guardianship
 32-5 certification program of the Judicial Branch Certification
 32-6 Commission [~~Guardianship Certification Board~~] under Section
 32-7 155.105 [~~111.044~~], Government Code.

32-8 SECTION 2.14. Section 1104.258, Estates Code, as effective
 32-9 January 1, 2014, is amended to read as follows:

32-10 Sec. 1104.258. INFORMATION REGARDING CERTAIN STATE
 32-11 EMPLOYEES PROVIDING GUARDIANSHIP SERVICES. Not later than January
 32-12 31 of each year, the Department of Aging and Disability Services
 32-13 shall submit to the guardianship certification program of the
 32-14 Judicial Branch Certification Commission [~~Guardianship~~
 32-15 ~~Certification Board~~] a statement containing:

32-16 (1) the name, address, and telephone number of each
 32-17 department employee who is or will be providing guardianship
 32-18 services to a ward or proposed ward on the department's behalf; and

32-19 (2) the name of each county in which each employee
 32-20 named in Subdivision (1) is providing or is authorized to provide
 32-21 those services.

32-22 SECTION 2.15. Subsection (a), Section 1104.303, Estates
 32-23 Code, as effective January 1, 2014, is amended to read as follows:

32-24 (a) An application for a certificate of registration must
 32-25 include a sworn statement containing the following information
 32-26 concerning a private professional guardian or each person who
 32-27 represents or plans to represent the interests of a ward as a
 32-28 guardian on behalf of the private professional guardian:

32-29 (1) place of residence;

32-30 (2) business address and business telephone number;

32-31 (3) educational background and professional
 32-32 experience;

32-33 (4) three or more professional references;

32-34 (5) the name of each ward for whom the private
 32-35 professional guardian or person is or will be serving as a guardian;

32-36 (6) the aggregate fair market value of the property of
 32-37 all wards that is or will be managed by the private professional
 32-38 guardian or person;

32-39 (7) whether the private professional guardian or
 32-40 person has ever been removed as a guardian by the court or resigned
 32-41 as a guardian in a particular case, and, if so:

32-42 (A) a description of the circumstances causing
 32-43 the removal or resignation; and

32-44 (B) the style of the suit, the docket number, and
 32-45 the court having jurisdiction over the proceeding; and

32-46 (8) the certification number or provisional
 32-47 certification number issued to the private professional guardian or
 32-48 person by the guardianship certification program of the Judicial
 32-49 Branch Certification Commission [~~Guardianship Certification~~
 32-50 ~~Board~~].

32-51 SECTION 2.16. Section 1104.306, Estates Code, as effective
 32-52 January 1, 2014, is amended to read as follows:

32-53 Sec. 1104.306. USE OF NAMES AND BUSINESS ADDRESSES. Not
 32-54 later than January 31 of each year, the clerk shall submit to the
 32-55 guardianship certification program of the Judicial Branch
 32-56 Certification Commission [~~Guardianship Certification Board~~] the
 32-57 name and business address of each private professional guardian who
 32-58 has satisfied the registration requirements of this subchapter
 32-59 during the preceding year.

32-60 SECTION 2.17. Subsection (a), Section 1104.404, Estates
 32-61 Code, as effective January 1, 2014, is amended to read as follows:

32-62 (a) The clerk described by Section 1104.402 is not required
 32-63 to obtain criminal history record information for a person who
 32-64 holds a certificate issued under Section 155.102 [~~111.042~~],
 32-65 Government Code, or a provisional certificate issued under Section
 32-66 155.103 [~~111.0421~~], Government Code, if the guardianship
 32-67 certification program of the Judicial Branch Certification
 32-68 Commission [~~Guardianship Certification Board~~] conducted a criminal
 32-69 history check on the person before issuing or renewing the

33-1 certificate.

33-2 SECTION 2.18. Section 1104.407, Estates Code, as effective
33-3 January 1, 2014, is amended to read as follows:

33-4 Sec. 1104.407. DUTY TO PROVIDE INFORMATION ON REQUEST. The
33-5 department shall provide the information obtained under Section
33-6 1104.406(a) [~~1102.406(a)~~] to:

33-7 (1) the clerk of the county having venue of the
33-8 guardianship proceeding at the court's request; and

33-9 (2) the guardianship certification program of the
33-10 Judicial Branch Certification Commission [~~Guardianship~~
33-11 ~~Certification Board~~] at the commission's [~~board's~~] request.

33-12 SECTION 2.19. Section 1104.408, Estates Code, as effective
33-13 January 1, 2014, is amended to read as follows:

33-14 Sec. 1104.408. INFORMATION FOR EXCLUSIVE USE OF COURT OR
33-15 GUARDIANSHIP CERTIFICATION PROGRAM OF JUDICIAL BRANCH
33-16 CERTIFICATION COMMISSION [~~BOARD~~]. (a) Criminal history record

33-17 information obtained under Section 1104.407 is privileged and
33-18 confidential and is for the exclusive use of the court and
33-19 guardianship certification program of the Judicial Branch
33-20 Certification Commission [~~Guardianship Certification Board~~], as
33-21 appropriate. The information may not be released or otherwise
33-22 disclosed to any person or agency except:

33-23 (1) on court order;

33-24 (2) with the consent of the person being investigated;

33-25 or

33-26 (3) as authorized by Section 1104.404 of this code or
33-27 Section 411.1386(a-6), Government Code.

33-28 (b) The county clerk or guardianship certification program
33-29 of the Judicial Branch Certification Commission [~~Guardianship~~
33-30 ~~Certification Board~~] may destroy the criminal history record
33-31 information after the information is used for the purposes
33-32 authorized by this subchapter.

33-33 SECTION 2.20. Section 1104.410, Estates Code, as effective
33-34 January 1, 2014, is amended to read as follows:

33-35 Sec. 1104.410. USE OF INFORMATION BY GUARDIANSHIP
33-36 CERTIFICATION PROGRAM OF JUDICIAL BRANCH CERTIFICATION COMMISSION
33-37 [~~BOARD~~]. Criminal history record information obtained by the

33-38 guardianship certification program of the Judicial Branch
33-39 Certification Commission [~~Guardianship Certification Board~~] under
33-40 Section 1104.407(2) may be used for any purpose related to the
33-41 issuance, denial, renewal, suspension, or revocation of a
33-42 certificate issued by the commission [~~board~~].

33-43 SECTION 2.21. Subsection (b), Section 1203.052, Estates
33-44 Code, as effective January 1, 2014, is amended to read as follows:

33-45 (b) In addition to the authority granted to the court under
33-46 Subsection (a), the court may, on the complaint of the guardianship
33-47 certification program of the Judicial Branch Certification

33-48 Commission [~~Guardianship Certification Board~~], remove a guardian
33-49 who would be ineligible for appointment under Subchapter H, Chapter
33-50 1104, because of the guardian's failure to maintain the
33-51 certification required under Subchapter F, Chapter 1104. The
33-52 guardian shall be cited to appear and contest the request for
33-53 removal under this subsection in the manner provided by Subsection
33-54 (a).

33-55 SECTION 2.22. Subsection (b), Section 1251.003, Estates
33-56 Code, as effective January 1, 2014, is amended to read as follows:

33-57 (b) The application must state:

33-58 (1) the name and address of the person who is the
33-59 subject of the guardianship proceeding;

33-60 (2) the danger to the person or property alleged to be
33-61 imminent;

33-62 (3) the type of appointment and the particular
33-63 protection and assistance being requested;

33-64 (4) the facts and reasons supporting the allegations
33-65 and requests;

33-66 (5) the proposed temporary guardian's name, address,
33-67 and qualification;

33-68 (6) the applicant's name, address, and interest; and

33-69 (7) if applicable, that the proposed temporary

34-1 guardian is a private professional guardian who is certified under
 34-2 Subchapter C, Chapter 155 [~~111~~], Government Code, and has complied
 34-3 with the requirements of Subchapter G, Chapter 1104.

34-4 SECTION 2.23. Subsection (i), Section 411.081, Government
 34-5 Code, is amended to read as follows:

34-6 (i) A criminal justice agency may disclose criminal history
 34-7 record information that is the subject of an order of nondisclosure
 34-8 under Subsection (d) to the following noncriminal justice agencies
 34-9 or entities only:

- 34-10 (1) the State Board for Educator Certification;
 34-11 (2) a school district, charter school, private school,
 34-12 regional education service center, commercial transportation
 34-13 company, or education shared service arrangement;
 34-14 (3) the Texas Medical Board;
 34-15 (4) the Texas School for the Blind and Visually
 34-16 Impaired;
 34-17 (5) the Board of Law Examiners;
 34-18 (6) the State Bar of Texas;
 34-19 (7) a district court regarding a petition for name
 34-20 change under Subchapter B, Chapter 45, Family Code;
 34-21 (8) the Texas School for the Deaf;
 34-22 (9) the Department of Family and Protective Services;
 34-23 (10) the Texas Juvenile Justice Department [~~Youth~~
 34-24 ~~Commission~~];
 34-25 (11) the Department of Assistive and Rehabilitative
 34-26 Services;
 34-27 (12) the Department of State Health Services, a local
 34-28 mental health service, a local mental retardation authority, or a
 34-29 community center providing services to persons with mental illness
 34-30 or retardation;
 34-31 (13) the Texas Private Security Board;
 34-32 (14) a municipal or volunteer fire department;
 34-33 (15) the Texas Board of Nursing;
 34-34 (16) a safe house providing shelter to children in
 34-35 harmful situations;
 34-36 (17) a public or nonprofit hospital or hospital
 34-37 district;
 34-38 (18) [~~the Texas Juvenile Probation Commission,~~
 34-39 [~~19~~] the securities commissioner, the banking
 34-40 commissioner, the savings and mortgage lending commissioner, the
 34-41 consumer credit commissioner, or the credit union commissioner;
 34-42 (19) [~~20~~] the Texas State Board of Public
 34-43 Accountancy;
 34-44 (20) [~~21~~] the Texas Department of Licensing and
 34-45 Regulation;
 34-46 (21) [~~22~~] the Health and Human Services Commission;
 34-47 (22) [~~23~~] the Department of Aging and Disability
 34-48 Services;
 34-49 (23) [~~24~~] the Texas Education Agency;
 34-50 (24) the Judicial Branch Certification Commission
 34-51 [~~25~~ the Guardianship Certification Board];
 34-52 (25) [~~26~~] a county clerk's office in relation to a
 34-53 proceeding for the appointment of a guardian under Chapter XIII,
 34-54 Texas Probate Code;
 34-55 (26) [~~27~~] the Department of Information Resources
 34-56 but only regarding an employee, applicant for employment,
 34-57 contractor, subcontractor, intern, or volunteer who provides
 34-58 network security services under Chapter 2059 to:
 34-59 (A) the Department of Information Resources; or
 34-60 (B) a contractor or subcontractor of the
 34-61 Department of Information Resources;
 34-62 (27) [~~28~~ the Court Reporters Certification Board,
 34-63 [~~29~~] the Texas Department of Insurance; and
 34-64 (28) [~~30~~] the Teacher Retirement System of Texas.

34-65 SECTION 2.24. Subsections (a-4), (a-6), (d), and (f),
 34-66 Section 411.1386, Government Code, are amended to read as follows:

34-67 (a-4) The Department of Aging and Disability Services shall
 34-68 provide the information obtained under Subsection (a-1) to:

- 34-69 (1) the clerk of the county having venue over the

35-1 guardianship proceeding at the request of the court; and
 35-2 (2) the guardianship certification program of the
 35-3 Judicial Branch Certification Commission [~~Guardianship~~
 35-4 ~~Certification Board~~] at the request of the commission [~~board~~].

35-5 (a-6) The clerk described by Subsection (a) is not required
 35-6 to obtain criminal history record information for a person who
 35-7 holds a certificate issued under Section 155.102 [~~111.042~~] or a
 35-8 provisional certificate issued under Section 155.103 [~~111.0421~~] if
 35-9 the guardianship certification program of the Judicial Branch
 35-10 Certification Commission [~~Guardianship Certification Board~~]
 35-11 conducted a criminal history check on the person before issuing or
 35-12 renewing the certificate. The commission [~~board~~] shall provide to
 35-13 the clerk at the court's request the criminal history record
 35-14 information that was obtained from the department or the Federal
 35-15 Bureau of Investigation.

35-16 (d) The criminal history record information obtained under
 35-17 Subsection (a-4) is for the exclusive use of the court or
 35-18 guardianship certification program of the Judicial Branch
 35-19 Certification Commission [~~Guardianship Certification Board~~], as
 35-20 appropriate, and is privileged and confidential. The information
 35-21 may not be released or otherwise disclosed to any person or agency
 35-22 except on court order, with the consent of the person being
 35-23 investigated, or as authorized by Subsection (a-6) or Section
 35-24 698(a-6), Texas Probate Code. The county clerk or guardianship
 35-25 certification program of the Judicial Branch Certification
 35-26 Commission [~~Guardianship Certification Board~~] may destroy the
 35-27 criminal history record information after the information is used
 35-28 for the purposes authorized by this section.

35-29 (f) Criminal history record information obtained by the
 35-30 guardianship certification program of the Judicial Branch
 35-31 Certification Commission [~~Guardianship Certification Board~~] under
 35-32 Subsection (a-4)(2) may be used for any purpose related to the
 35-33 issuance, denial, renewal, suspension, or revocation of a
 35-34 certificate issued by the commission [~~board~~].

35-35 SECTION 2.25. Section 411.1408, Government Code, is amended
 35-36 to read as follows:

35-37 Sec. 411.1408. ACCESS TO CRIMINAL HISTORY RECORD
 35-38 INFORMATION: JUDICIAL BRANCH CERTIFICATION COMMISSION
 35-39 [~~GUARDIANSHIP CERTIFICATION BOARD~~]. (a) In this section,
 35-40 "commission" [~~"board"~~] means the Judicial Branch Certification
 35-41 Commission [~~Guardianship Certification Board~~] established under
 35-42 Chapter 152 [~~111~~].

35-43 (b) The commission [~~board~~] is entitled to obtain from the
 35-44 department criminal history record information maintained by the
 35-45 department that relates to a person who is an applicant for or the
 35-46 holder of a certificate, registration, or license issued by the
 35-47 commission or otherwise under Subtitle K, Title 2 [~~board~~].

35-48 (c) Criminal history record information obtained by the
 35-49 commission [~~board~~] under Subsection (b):

35-50 (1) may be used by the commission [~~board~~] for any
 35-51 purpose related to the issuance, denial, suspension, revocation, or
 35-52 renewal of a certificate, registration, or license issued by the
 35-53 commission or otherwise under Subtitle K, Title 2 [~~board~~];

35-54 (2) may not be released or disclosed to any person
 35-55 except:

35-56 (A) on court order;
 35-57 (B) with the consent of the person who is the
 35-58 subject of the information; or

35-59 (C) as authorized by Section 411.1386(a-6) of
 35-60 this code or Section 698(a-6), Texas Probate Code, if applicable;
 35-61 and

35-62 (3) shall be destroyed by the commission [~~board~~] after
 35-63 the information is used for the authorized purposes.

35-64 SECTION 2.26. Subsection (a), Section 2054.352, Government
 35-65 Code, is amended to read as follows:

35-66 (a) The following licensing entities shall participate in
 35-67 the system established under Section 2054.353:

35-68 (1) Texas Board of Chiropractic Examiners;
 35-69 (2) Judicial Branch [~~Court Reporters~~] Certification

36-1 Commission [~~Board~~];
 36-2 (3) State Board of Dental Examiners;
 36-3 (4) Texas Funeral Service Commission;
 36-4 (5) Texas Board of Professional Land Surveying;
 36-5 (6) Texas Medical Board;
 36-6 (7) Texas Board of Nursing;
 36-7 (8) Texas Optometry Board;
 36-8 (9) Department of Agriculture, for licenses issued
 36-9 under Chapter 1951, Occupations Code;
 36-10 (10) Texas State Board of Pharmacy;
 36-11 (11) Executive Council of Physical Therapy and
 36-12 Occupational Therapy Examiners;
 36-13 (12) Texas State Board of Plumbing Examiners;
 36-14 (13) Texas State Board of Podiatric Medical Examiners;
 36-15 (14) Texas State Board of Examiners of Psychologists;
 36-16 (15) State Board of Veterinary Medical Examiners;
 36-17 (16) Texas Real Estate Commission;
 36-18 (17) Texas Appraiser Licensing and Certification
 36-19 Board;
 36-20 (18) Texas Department of Licensing and Regulation;
 36-21 (19) Texas State Board of Public Accountancy;
 36-22 (20) State Board for Educator Certification;
 36-23 (21) Texas Board of Professional Engineers;
 36-24 (22) Department of State Health Services;
 36-25 (23) Texas Board of Architectural Examiners;
 36-26 (24) Texas Racing Commission;
 36-27 (25) Commission on Law Enforcement Officer Standards
 36-28 and Education; and
 36-29 (26) Texas Private Security Board.
 36-30 SECTION 2.27. Subsection (c), Section 161.114, Human
 36-31 Resources Code, is amended to read as follows:
 36-32 (c) A volunteer may provide life enrichment activities,
 36-33 companionship, transportation services, and other services to or
 36-34 for the ward in a guardianship, except the volunteer may not provide
 36-35 services that would require the volunteer to be certified under
 36-36 Section 155.102 [~~111.042~~], Government Code.
 36-37 SECTION 2.28. Subsection (a), Section 151.353, Tax Code, is
 36-38 amended to read as follows:
 36-39 (a) Court reporting services relating to the preparation of
 36-40 a document or other record in a civil or criminal suit by a notary
 36-41 public or a court reporter licensed by the Judicial Branch [~~State of~~
 36-42 ~~Texas Court Reporters~~] Certification Commission [~~Board~~] are
 36-43 exempted from the taxes imposed by this chapter if the document is:
 36-44 (1) prepared for the use of a person participating in a
 36-45 suit or the court in which a suit or administrative proceeding is
 36-46 brought; and
 36-47 (2) sold to a person participating in the suit.
 36-48 ARTICLE 3. REPEALER, TRANSITION, AND EFFECTIVE DATE
 36-49 SECTION 3.01. The following provisions of the Government
 36-50 Code are repealed:
 36-51 (1) Subdivisions (1), (2), (2-a), and (7), Subsection
 36-52 (a), Section 52.001;
 36-53 (2) Sections 52.002, 52.003, 52.0112, 52.012,
 36-54 52.0121, 52.013, 52.0131, 52.014, 52.015, 52.016, 52.0165, 52.017,
 36-55 52.0175, 52.018, and 52.0185;
 36-56 (3) the heading to Subchapter B, Chapter 52;
 36-57 (4) Subdivision (5), Section 57.001;
 36-58 (5) Section 72.013;
 36-59 (6) Subchapter F, Chapter 72; and
 36-60 (7) Section 411.1403.
 36-61 SECTION 3.02. (a) In appointing the initial members of the
 36-62 Judicial Branch Certification Commission created under Chapter
 36-63 152, Government Code, as added by this Act, the Supreme Court of
 36-64 Texas shall appoint three members to terms expiring February 1,
 36-65 2017, three members to terms expiring February 1, 2019, and three
 36-66 members to terms expiring February 1, 2021.
 36-67 (b) The Supreme Court of Texas shall adopt rules,
 36-68 procedures, and forms the supreme court determines are necessary to
 36-69 implement Subtitle K, Title 2, Government Code, as added by this

37-1 Act, not later than September 1, 2014.

37-2 (c) On September 1, 2014:

37-3 (1) the Judicial Branch Certification Commission is
37-4 created;

37-5 (2) the Court Reporters Certification Board,
37-6 Guardianship Certification Board, and process server review board
37-7 are abolished;

37-8 (3) the powers, duties, functions, programs, and
37-9 activities of the Court Reporters Certification Board,
37-10 Guardianship Certification Board, and process server review board
37-11 and of the Texas Commission of Licensing and Regulation and the
37-12 Texas Department of Licensing and Regulation related to licensed
37-13 court interpreters are transferred to the Judicial Branch
37-14 Certification Commission;

37-15 (4) an employee of the Court Reporters Certification
37-16 Board, Guardianship Certification Board, or process server review
37-17 board becomes an employee of the Office of Court Administration of
37-18 the Texas Judicial System;

37-19 (5) all obligations and contracts of the Court
37-20 Reporters Certification Board, Guardianship Certification Board,
37-21 and process server review board and of the Texas Commission of
37-22 Licensing and Regulation and the Texas Department of Licensing and
37-23 Regulation related to licensed court interpreters are transferred
37-24 to the Office of Court Administration of the Texas Judicial System;

37-25 (6) all property and records in the custody of the
37-26 Court Reporters Certification Board, Guardianship Certification
37-27 Board, and process server review board and of the Texas Commission
37-28 of Licensing and Regulation and the Texas Department of Licensing
37-29 and Regulation related to licensed court interpreters shall be
37-30 transferred to the Office of Court Administration of the Texas
37-31 Judicial System;

37-32 (7) all complaints, investigations, or contested
37-33 cases that are pending before the Court Reporters Certification
37-34 Board, Guardianship Certification Board, and process server review
37-35 board and of the Texas Commission of Licensing and Regulation and
37-36 the Texas Department of Licensing and Regulation related to
37-37 licensed court interpreters are transferred without change in
37-38 status to the Judicial Branch Certification Commission;

37-39 (8) a rule, form, or fee adopted by the Supreme Court
37-40 of Texas or the Texas Commission of Licensing and Regulation
37-41 related to a profession regulated under Subtitle K, Title 2,
37-42 Government Code, as added by this Act, remains in effect until
37-43 altered by the supreme court;

37-44 (9) except as otherwise provided by this Act, a
37-45 reference in law to the Court Reporters Certification Board,
37-46 Guardianship Certification Board, or process server review board
37-47 means the Judicial Branch Certification Commission; and

37-48 (10) a license, certification, or registration in
37-49 effect that was issued by the Court Reporters Certification Board,
37-50 Guardianship Certification Board, process server review board, or
37-51 Texas Department of Licensing and Regulation related to professions
37-52 regulated under Subtitle K, Title 2, Government Code, as added by
37-53 this Act, is continued in effect as a license, certification, or
37-54 registration of the Judicial Branch Certification Commission.

37-55 (d) The abolition of the Court Reporters Certification
37-56 Board, Guardianship Certification Board, and process server review
37-57 board and the transfer of powers, duties, functions, programs,
37-58 activities, obligations, rights, contracts, records, property,
37-59 funds, and employees as provided by this Act do not affect or impair
37-60 an act done, any obligation, right, order, permit, certificate,
37-61 rule, criterion, standard, or requirement existing, or any penalty
37-62 accrued under former law, and that law remains in effect for any
37-63 action concerning those matters.

37-64 (e) Subsections (a) and (b) of this section take effect
37-65 September 1, 2013.

37-66 SECTION 3.03. Except as otherwise provided by this Act,
37-67 this Act takes effect September 1, 2014.

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