

February 11, 2020

## **Request for Comments on Proposed Rules of the Judicial Branch Certification Commission**

The Judicial Branch Certification Commission (JBCC) requests comments on the following proposed **Rules of the Judicial Branch Certification Commission**. An outline of major changes prefaces the rules.

This rule package contains updates from legislation passed in 2019 relating to implementation of SB 891 addressing the court reporter shortage which includes but is not limited to ; 1) establishing apprentice and provisional certifications for court reporters, and 2) establishing conditions under which court reporting firms are subject to disciplinary action for repeated failure to fulfill a commitment to provide court reporter services.

Comments must be submitted in writing by 5:00 p.m. on March 12, 2020 to the Supreme Court of Texas at P.O. Box 12248, Austin, Texas 78711, or by email to [rulescomments@txcourts.gov](mailto:rulescomments@txcourts.gov). Comments received will be publicly available and may be posted to the JBCC website.

## **Rules Revisions Outline**

### **A. POWERS OF THE COMMISSION – Senate Bill 284**

Allows the Commission to administer and enforce enabling laws of the Forensic Science Commission to the extent necessary to conduct hearings referred from that Commission.

### **B. MILITARY SPOUSES – Senate Bill 1200**

1. Requires Commission to issue written authorization to a military spouse to engage in a regulated practice without certification, registration, or licensure.
2. To qualify for the written authorization, the military spouse must:
  - a. submit a copy of their military identification card and proof of residency in Texas; and
  - b. be certified, registered, or licensed in good standing in another jurisdiction with substantially equivalent certification, registration, or licensure standards.

### **C. CERTIFIED SHORTHAND REPORTERS – Senate Bill 891**

#### **1. Endorsement Revisions**

- a. Endorsement waives Part A of the exam
- b. Applicant must be certified or licensed in good standing in another jurisdiction
  - i. With substantially equivalent or more stringent certification requirements,
  - ii. Which is in a reciprocity agreement with Texas, or
  - iii. Is on the list of states with substantially equivalent certification requirements
- c. Applicant must prove active court reporting in another jurisdiction for 3 years of past 5-year period.
- d. Applicant for endorsement may obtain provisional certification until endorsement or upon expiration of 3 years, whichever occurs first.

#### **2. Apprentice Reporter**

- a. Applicant must pass part of Part A and Part B during 2-year period preceding application, and
  - i. Submit a letter of completion from a court reporting school,
  - ii. Submit a letter verifying the applicant is enrolled in upper speed class and can report 200 words per minute, or
  - iii. Submit proof of satisfactory practice for 3 of the past 5 years in a non-licensing jurisdiction.
- b. Must be supervised by a certified shorthand reporter who has been certified for 10 years.
- c. May not report hearings but may report depositions and other proceedings.
- d. Must file steno notes, text files, and audio recordings with supervising reporter within 5 days after reporting.
- e. Apprentice must take Part A at least twice per year and file written proof thereof with supervisor.
- f. Must inform attorney of apprentice status upon taking deposition.
- g. Apprenticeship last no longer than 2 years subject to extension to obtain Part A scores.

### **3. Provisional Certification**

- a. Available to a person who passes Part B and a criminal history check, if
  - i. The person previously held certification and retired or left profession within 3 years preceding application,
  - ii. The person was licensed or certified in good standing in another jurisdiction and actively practiced for 3 out of past 5 years,
  - iii. The person was actively engaged in practice in federal courts for 3 of past 5 years, or
  - iv. The person holds an RPR or something comparable or more stringent and has been actively engaged in the practice for 3 of the past 5 years.
- b. Provisional certification lasts for 3 years or until full certification is issued whichever occurs sooner – subject to extension to obtain Part A test results.

### **4. Fees**

- a. Requires court reporting firms to pay unpaid renewal fees in order to obtain new registration after previous registration expires.
- b. Imposes a \$200 fee for applying for:
  - i. Certification by Endorsement
  - ii. Provisional Certification
  - iii. Apprenticeship.
- c. Eliminates a \$10 discount for applying for Part A and Part B combined.
- d. Modifies prerequisites for waiver of registration and renewal fees for court reporting firms to require submission of:
  - i. An affidavit of a certified shorthand reporter swearing the reporter owns more than 50 percent of the firm and maintains actual control of it; and
  - ii. Corroborating evidence – copies of tax forms, business entity filings, or other evidence – of ownership and control by the affiant.

### **5. Other changes**

- a. Requires at least one person with management authority over court reporting firm to obtain continuing education.
- b. Designates as “unprofessional conduct” repeatedly committing to provide reporting services and unreasonably failing to provide them (mirrors SB 891).

### **D. GUARDIANS**

Requires applicants for certification as a guardian to complete the Commission’s online guardianship training to be eligible for certification.

### **E. PROCESS SERVERS**

Prohibits certified process servers from representing or implying that they are certified or otherwise derive authority to serve process from the Texas Supreme Court.

Prohibits certified process servers from directing a person to contact the Texas Supreme Court or the clerk of the Supreme Court regarding any matter relating to the service of process or the process server; except to respond to a matter before the Court in its adjudicative capacity.

**F. LICENSED COURT INTERPRETERS**

Requires applicants for licensure to pass all parts of the oral examination during a single examination session held on one day.

**G. GUARDIANSHIP REGISTRATION**

1. Allows Commission to direct proposed guardians to file their online training certificates with the court where they seek appointment to fulfill the Commission's duty to notify the court that the training is complete.
2. Requires proposed guardians who reside in a jurisdiction other than Texas to undergo a fingerprint-based criminal history check regards of the value of the liquid assets of the proposed estate.