

**TEXAS FORENSIC SCIENCE COMMISSION GUIDELINES FOR
CONSIDERATION OF CRIMINAL CONVICTIONS**

If you have a criminal conviction above a Class C misdemeanor, you might not be qualified to hold a forensic analyst license. The Commission does not consider Class C misdemeanors or below.

I. Convictions that may trigger a denial

The Commission may suspend or revoke a forensic analyst license, disqualify a person from receiving a license, refuse to renew a person's license, or deny to a person the opportunity to take the general forensic licensing examination on the grounds that the person has been convicted of:

- (1) an offense that directly relates to the duties and responsibilities associated with an analyst's license;
- (2) an offense listed in Article 42A.054, Code of Criminal Procedure; or
- (3) a sexually violent offense as defined by Article 62.001, Code of Criminal Procedure.

A forensic analyst license holder's license may be revoked on the license holder's imprisonment following a felony conviction, felony community supervision, revocation of parole, or revocation of mandatory supervision.

Offenses from another state containing elements substantially similar to the enumerated offenses under the Texas Penal Code are considered the same way as the offense would have been considered had it been committed in Texas.

II. Offenses that apply to category (1) above because they directly relate to the duties and responsibilities associated with an analyst's license may include, but are not limited to:

- Misrepresentation (e.g., fraud, extortion, bribery, theft by check, and deceptive business practices);
- Failure to register as a sex offender (as required by the Texas Code of Criminal Procedure, Chapter 62);
- Property Crimes, such as theft or burglary;
- Crimes against persons, such as homicide, kidnapping, and assault;
- Drug crimes, such as possession;
- Multiple DWI and DUI crimes;
- All felony convictions; and
- Misdemeanors and felony convictions considered by Texas courts to be crimes of moral turpitude (regardless of punishment).*

*Crimes of moral turpitude may be directly related to the duties and responsibilities of a forensic analyst because the analyst may be impeached based on these convictions in accordance with Texas Rule of Evidence 609.

III. Possible consequences

In the event of a criminal conviction, the Commission may take one of the following courses of action:

- Declare a prospective applicant unsuitable for a license.
- Deny a renewal application for an existing license.
- Revoke or suspend an existing license.
- Deny the person the opportunity to take the general forensic analyst licensing examination.

IV. Determining whether there are grounds to deny

There are five general factors that the Commission considers in determining whether a particular criminal conviction directly relates to the duties and responsibilities associated with the analyst's license:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the analyst's occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- (4) the relationship of the crime to the ability or capacity required to perform the duties and discharges the responsibilities of the analyst's work; and
- (5) any correlation between the elements of the crime and the duties and responsibilities of the analyst's work.

V. Determining your fitness to perform the duties

After determining whether a conviction directly relates to the duties and responsibilities associated with the analyst's license, the Commission then considers the following in determining whether to take an action (suspension, revocation, disqualification, refusal to renew or denial to take the general forensic licensing examination):

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervisions; and
- (7) other evidence of the person's fitness, including letters of recommendation.

An applicant has the responsibility, to the extent possible, to obtain and provide to the Commission the recommendations described in (7) above.

VI. Notice

If the Commission suspends or revokes a license, refuses to renew a license, or denies a person a license or the opportunity to be examined for a license because of the person's prior conviction of an offense, the Commission will notify the person in writing of:

- (1) the reason for the suspension, revocation, denial, or disqualification, including any factor considered under IV. (1)-(5) and V. (1)-(7) above that has served as the basis for the action taken;
- (2) the review procedure provided by [Texas Administrative Code §651.217](#); and
- (3) the earliest date the person may appeal the action of the Commission.

VII. Criminal history evaluation request

If you are a prospective applicant for a forensic analyst license **and do not currently hold a license issued by the Commission**, and you think that you might be ineligible for the license because of a criminal matter or conviction—including cases that may be pending, deferred, or dismissed—for a felony or a misdemeanor above a Class C, you should request an evaluation of your criminal history by filling out and submitting an Evaluation of Criminal Charge(s)/Conviction(s) Form available on the Commission's website here: <http://www.txcourts.gov/media/1442459/criminal-history-evaluation-request-form-09072018.pdf>. This evaluation request must include all pending criminal matters or convictions in any state or country, including cases that may be pending, deferred, or dismissed.

You should request this evaluation before enrolling in an educational program that prepares you for a license or before taking the general forensic examination for a license.

VIII. Background check and determination

When we receive your application or your request for an evaluation of your criminal history, we will check your criminal background. The Commission will then make a determination as to whether there are grounds for ineligibility.

The Commission will notify you in writing of our determination no later than the 90th day after the date that we receive an application or criminal history evaluation request. If the determination is that you are ineligible for a license, the Commission will explain the basis for this determination. All determinations are final; however, if at any time we discover pertinent new facts, we may re-evaluate your eligibility and issue a new determination later.

If we determine that there are no grounds for denying the application, we will complete the processing of the application and issue the license.

IX. Right to request a hearing

An applicant has the right to request a hearing through the Judicial Branch Certification Commission on an action by the Forensic Science Commission to deny, revoke or suspend a forensic analyst's license.

If you decide to request a hearing, you must:

1. make your request in writing;
2. include your name, address and phone number; and
3. make sure that your request is received by our office no later than twenty (20) calendar days after the date the "intent to deny" notification was issued. You should send your request either via email to licensing@fsc.texas.gov or via U.S. mail to:

Texas Forensic Science Commission
Attn: Licensing Program
1700 North Congress Ave., Suite 445
Austin, Texas 78701

If you request a hearing, the Judicial Branch Certification Commission will schedule one for you. The hearing will be conducted by the Judicial Branch Certification Commission to determine whether there is substantial evidence to support the determination or action by the Commission.

For more information, please contact us:

Website: <http://www.txcourts.gov/fsc/licensing/>

Email: Licensing@fsc.texas.gov

Phone: (512) 936-0770

These guidelines are being issued pursuant to Texas Occupations Code 53.025(a).