

Criminal History Information Check Options And Relevant GCB Rules

1. Use attestation under current rule.

- a. Timing option: certify guardians using this method until rule is changed

Issues:

- Proactive enough?

- b. Timing option: see 1.a above but also change rule to require guardians who have been certified to submit their criminal history checks by a certain date, e.g., November 1, 2007 and new applicants have to follow new rule (see 2 and 3 below).

Issues:

- Might be required to revoke certifications that have recently been issued.

- c. Timing option: take applications with attestation and hold them; change rule as soon as possible; then require applicants to comply with new requirement.

Issues:

- Creates backlog of applications.
- Could create another layer of work for processing applications – might need to contact persons with pending applications when we're ready to proceed under amended rule.

2. Take applications with attestation and hold them; Board performs checks once SB 505 passes.

Issues:

- Creates backlog of applications.
- If Board chooses fingerprint check option, could create another layer of work for processing applications – would need to contact applicants and ask them to go get fingerprinted.
- Cost: who pays? Supreme Court would have to approve a pass-through fee.
- Fingerprint check or name check?

3. Require applicants to obtain their own criminal history and send it with application.

Issues:

- Is rule change necessary?
- Would increase cost for individuals/programs.
- Fingerprint check or name check?
- Can applicants submit check done some time within recent past? If so, how far back?

Relevant GCB Rule Provisions

V. Application Procedure

- (a) Application Forms. Applications for certification and re-certification shall be made in writing on forms provided by the Board. In appropriate circumstances, the Board may require the applicant to submit information in addition to that called for on the application forms.

VI. Requirements for Certification

- (e) Attest under penalty of perjury as to whether he or she has ever been adjudged guilty of or entered a plea of no contest in return for a grant of deferred adjudication to a felony, crime of moral turpitude, or any offense listed in sections 22.01 (assault), 22.011 (sexual assault), 22.02 (aggravated assault), 22.021 (aggravated sexual assault), 22.04 (injury to a child, elderly individual, or disabled individual), 22.041 (abandoning or endangering a child), 22.07 (deadly conduct), 22.08 (terroristic threat), and 32.45 (misapplication of fiduciary property) of the Texas Penal Code.
- (g) If the applicant has ever been adjudged guilty of or pleaded no contest to any crime described in Section VI(e) above, or been relieved of guardian responsibilities, been found civilly liable, or settled a claim as described under Section VI(f)(1) or (2) above, the applicant must describe with particularity the circumstances and provide any related documentation requested by the Board.

IX. Board Determination

If the applicant has complied with the application process, the Board shall grant certification or recertification unless denial is made in accordance with Section IX. The Board may conduct further investigation or require additional information from the applicant or other sources. In appropriate circumstances, the Board may grant or deny certification and re-certification based on the further information it receives.