

STATUTORY RULE MAKING AUTHORITY RELATING TO THE JBCC'S FUNCTION

COURT REPORTERS-

Texas Government Code (TGC,) Sec. 154.002. RULES. The supreme court may adopt rules consistent with this subtitle, including rules governing:

- (1) the certification and conduct of official and deputy court reporters and shorthand reporters; and
- (2) the registration and conduct of court reporting and shorthand reporting firms.

GUARDIANS-

TGC, Sec. 155.002. RULES. The supreme court may adopt rules consistent with this chapter, including rules governing the certification of individuals providing guardianship services.

COURT INTERPRETERS-

TGC, Sec. 157.101. ISSUANCE OF LICENSE; TERM. (b) The Judicial Branch Certification Commission shall adopt rules relating to licensing under this chapter. The rules must be approved by the supreme court. The director shall prescribe all forms required under this chapter.

PROCESS SERVERS-

TGC, Sec. 156...??? [There is no reference to the adoption of rules in this section.]

STATUTES Relating to Definitions

TEXAS GOVERNMENT CODE, TITLE 2, SUBTITLE K

Sec. 151.001. (GENERAL PROVISIONS) DEFINITIONS. In this subtitle:

- (1) "**Certification**" means a certification issued by the commission.
- (2) "**Commission**" means the Judicial Branch Certification Commission.
- (7) "**Regulated person**" means a person who holds a certification, registration, or license issued by the commission.

Chapter 154. COURT REPORTERS CERTIFICATION AND SHORTHAND REPORTING FIRMS REGISTRATION

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

- (3) "**Official court reporter**" means the shorthand reporter appointed by a judge as the official court reporter.
- (4) "**Shorthand reporter**" and "court reporter" mean a person who engages in shorthand reporting.
- (5) "**Shorthand reporting**" and "**court reporting**" mean the practice of shorthand reporting for use in litigation in the courts of this state by making a verbatim record of an oral court proceeding, deposition, or proceeding before a grand jury, referee, or court commissioner using written symbols in shorthand, machine shorthand, or oral stenography.
- (6) "**Shorthand reporting firm**," "**court reporting firm**," and "**affiliate office**" mean an entity wholly or partly in the business of providing court reporting or other related services in this state.

Chapter 155. GUARDIANSHIP CERTIFICATION:

Sec. 155.001. DEFINITIONS. In this chapter:

- (3) "**Guardian**" has the meaning assigned by Section 601, Texas Probate Code.
- (4) "**Guardianship program**" means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.
- (6) "**Private professional guardian**" means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.

Chapter 156. PROCESS SERVER CERTIFICATION

Sec. 156.001. DEFINITION. In this chapter, "**advisory board**" means the Process Server Certification Advisory Board. ["Process Server" "Certified Process Server" and "Process Service Firm," etc. are not defined in law. Neither is the practice of "Process Service" defined.]

Chapter 157. COURT INTERPRETERS LICENSING

Sec. 157.001. DEFINITIONS. In this chapter:

- (2) "**Licensed court interpreter**" means an individual licensed under this chapter by the commission to interpret court proceedings for an individual who can hear but who does not comprehend English or communicate in English.

RULES Relating to Definitions

JBCC rules promulgated by the Texas Supreme Court pursuant to Subt. K, TGC

(GENERAL PROVISIONS)

1.2 Definitions

The following words and terms, when used in these rules, have the following meanings, unless the context clearly indicates otherwise.

(d) **Certification** means a certification issued by the Commission. The term includes provisional certification.

(e) **Commission** means Texas Judicial Branch Certification Commission.

(l) **Regulated person** means a person who holds a certification, registration, or license issued by the Commission.

6.0. Court Reporters Certification and Shorthand Reporting Firms Registration

6.1 Definitions

(d) **Court reporter** and **shorthand reporter** mean a person who engages in shorthand reporting.

(e) **Court reporting** and **shorthand reporting** mean the practice of shorthand reporting for use in litigation in the courts of this State by making a verbatim record of an oral court proceeding, deposition, or proceeding before a grand jury, referee, or court commissioner using written symbols in shorthand, machine shorthand, or oral stenography.

(f) **Court reporting firm**, **shorthand reporting firm**, and **affiliate office** mean an entity wholly or partly in the business of providing court reporting or other related services in this State...

(g) **Official court reporter** means the shorthand reporter appointed by a judge under Section 52.041 of the Government Code as the official court reporter for a particular court.

7.0 Guardianship Certification

7.1 Definitions

(a) **Certified guardian** means a person who is certified by the Commission to provide guardianship services in this State.

(e) **Guardianship program** means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.

(i) **Private professional guardian** means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.

8.0 Process Server Certification

8.1 Definitions [What happened to "ADVISORY BOARD"??? It was not transcribed into the rules.]

Certified process server means a person who is certified by the Commission to serve process statewide. [THIS TERM IS NOT DEFINED BY STATUTE. Neither the Texas Supreme Court nor the JBCC have statutory authority to regulate a "certified process server."]

9.0 Licensed Court Interpreters

9.1 Definitions

(c) **Licensed court interpreter** means a person who is licensed by the Commission to interpret court proceedings for an individual who can hear but who does not comprehend English or communicate in English.



JUDICIAL BRANCH CERTIFICATION COMMISSION

Office of Court Administration

Request for Records

The Judicial Branch Certification Commission is a judicial branch entity. As such, it is not subject to the Public Information Act (Government Code Chapter 552), but to Rule 12 of the Rules of Judicial Administration. Rules of Judicial Administration are available from the Supreme Court of Texas' website, <http://www.supreme.courts.state.tx.us/rules/rja-home.asp#rja12>.

Please Type or Print Legibly

Please check the appropriate box below.

Court Reporters Certification Licensed Court Interpreters Guardianship Certification Process Server Certification

Please complete all items below and return this form to our office. This form may be mailed to PO Box 12066, Austin, TX 78711-2066, faxed to 512-463-1117, or emailed to jbcc@txcourts.gov.

(All fields must be completed. Notifications to applicants will be sent via email.)

Applicant Information				
Name				
Mailing Address:				
Phone #:		Fax #:		Email Address:

Submit requested information by: (Check one): Fax , Email , or Mail .

Format of documents requested (if in electronic format): (Example: Word, Excel, Pdf, etc.)

INFORMATION REQUESTED: (Attach additional sheets if necessary.)

PLEASE NOTE:

- The person making the request may not be asked to disclose the purpose of the request as a condition for obtaining information. Inquiries to identify the requestor, and to clarify the nature and scope of the request are permitted.
- Lists of licensed/certified individuals and registered court reporting firms are available on the JBCC website.
- Home addresses are generally exempt from disclosure under Rule 12; business contact information will be provided as appropriate.
- Requests under Rule 12 are to be processed within 14 days of receipt. If this is not possible, the requestor will be informed in writing of the delay, and will be informed when delivery can be expected.
- A fee may be due before information can be released.

Signature of Applicant

Date

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 15-009

RESPONDENT: Judicial Branch Certification Commission

DATE: September 29, 2015

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Mary Murphy; Judge David Peeples; Judge Dean Rucker; Judge Kelly G. Moore

Petitioner requested from the Judicial Branch Certification Commission (the "Commission") "any and all records in possession of the JBCC, the JBCC advisory boards and/or the JBCC investigator relating to the investigation and resolution of complaints." The Commission provided the records responsive to the request, but sensitive information, such as dates of birth and medical and financial information, was either redacted or withheld. Petitioner is appealing the denial of access to the information that was not disclosed and asks for clarification as to whether the Commission's records are judicial records subject to Rule 12 of the Rules of Judicial Administration. Petitioner also suggests that the Commission is not a judicial agency subject to Rule 12 and is instead subject to the Public Information Act (Tex. Gov't Code Ch. 552).

In its response, the Commission maintains that the requested records are not judicial records under Rule 12 and submits that this committee is without authority to consider this appeal. The Commission disagrees with Petitioner's suggestion that it is a governmental body subject to the Public Information Act (PIA) rather than a judicial agency that is subject to Rule 12 but asserts that this committee should not address this issue because it lacks the authority to consider this appeal.

Rule 12 governs requests to inspect or copy "judicial records" of a "judicial agency." Before deciding whether records are "judicial records" subject to Rule 12, we must first determine whether the agency that maintains the records is a "judicial agency" subject to Rule 12. Rule 12 defines a "judicial agency" as "an office, board, commission or other similar entity that is in the Judicial Department and that serves an administrative function for a court."

Rule 1.5 of the Rules of the Judicial Branch Certification Commission (JBCC Rules) adopted by the Supreme Court of Texas on September 1, 2014, provides that the Commission, as a judicial branch entity, is not a governmental body subject to the PIA and that access to its records is governed either by Rule 12 or by applicable statutory or common law.¹ The purpose of the Commission is to oversee the registration, licensing and certification of court professions such as process servers, court reporters, guardians and licensed court interpreters. *See* Tex. Gov't Code Chs. 151 and 152 and the JBCC Rules. In this role the Commission serves a basic administrative function for all the courts of Texas. Accordingly, we conclude that the Commission is a judicial branch agency for purposes of Rule 12 and that access to its records is governed by Rule 12.

¹ This committee is unaware of any statutory or common law that governs access to the Commission's records.

Though we conclude that the Commission is a judicial agency under Rule 12, not all records maintained by a judicial agency are "judicial records" subject to Rule 12. Rule 12.2(d) provides:

"Judicial record means a record made or maintained by or for a court or judicial agency in its regular course of business *but not pertaining to its adjudicative function*, regardless of whether that function relates to a specific case. A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record." Emphasis added.

Thus, the pivotal issue regarding access to the records in this appeal is whether the Commission exercises an adjudicative function when it investigates and resolves complaints regarding its licensees. In Rule 12 Decision No. 10-001, the committee decided that complaint records maintained by the PSRB were not judicial records subject to Rule 12 because the PSRB exercised an adjudicative function when it investigated and resolved complaints from the public. The Commission has assumed all of the duties of the PSRB and investigates and resolves complaints filed regarding process servers, court reporters, guardians and licensed court interpreters. We conclude that, like the PSRB before it, the Commission exercises an adjudicative function when it investigates and resolves complaints filed with the Commission and we conclude that the records maintained by the Commission related to these complaints are not judicial records subject to Rule 12.

In summary, the Commission is a judicial agency subject to Rule 12, but the records that are at issue in this appeal are not judicial records under Rule 12. Therefore, this committee can neither grant the petition in whole or in part nor sustain the denial of access to the requested records.

OCCUPATIONS CODE, CHAPTER 1301. PLUMBERS
"THE PLUMBING LICENSE LAW"
SUBCHAPTER A. GENERAL PROVISIONS

STATUTE
11 + PLUMBING

SEPTEMBER 1, 2015

Sec. 1301.001. SHORT TITLE

This chapter may be cited as the Plumbing License Law.

Sec. 1301.002. DEFINITIONS

In this chapter:

- (1) **"Board"** means the Texas State Board of Plumbing Examiners.
- (1-a) **"Control valve"** means a valve that operates each time water is supplied to, or shut off from, a receptacle or plumbing fixture. The term does not include a stop valve that may be installed in the water supply branch to the control valve.
- (1-b) **"Executive director"** means the executive director of the Texas State Board of Plumbing Examiners.
- (2) **"Drain cleaner"** means a person who:
 - (A) has completed at least 4,000 hours working under the supervision of a responsible master plumber as a drain cleaner-restricted registrant;
 - (B) has fulfilled the requirements of and is registered with the board; and
 - (C) installs cleanouts and removes and resets p-traps to eliminate obstructions in building drains and sewers under the supervision of a responsible master plumber.
- (3) **"Drain cleaner-restricted registrant"** means a person who:
 - (A) has worked as a plumber's apprentice under the supervision of a responsible master plumber;
 - (B) has fulfilled the requirements of and is registered with the board; and
 - (C) clears obstructions in sewer and drain lines through any code-approved existing opening under the supervision of a responsible master plumber.
- (4) **"Journeyman plumber"** means a person licensed under this chapter who:
 - (A) has met the qualifications for registration as a plumber's apprentice or for licensing as a tradesman plumber-limited license holder;
 - (B) has completed at least 8,000 hours working under the supervision of a responsible master plumber;
 - (C) installs, changes, repairs, services, or renovates plumbing or supervises any of those activities under the supervision of a responsible master plumber;
 - (D) has passed the required examination; and
 - (E) has fulfilled the other requirements of the board.
- (5) **"Master plumber"** means a person licensed under this chapter who:
 - (A) is skilled in the design, planning, and superintending of plumbing and in the practical installation, repair, and servicing of plumbing;
 - (B) has worked as a journeyman plumber:
 - (i) for at least four years; or
 - (ii) for at least one year and has successfully completed a training program approved by the United States Department of Labor Office of Apprenticeship or another nationally recognized apprentice training program accepted by the board;
 - (C) performs or supervises plumbing work;
 - (D) has passed the required examination; and
 - (E) has fulfilled the other requirements of the board.
- (5-a) **"Multipurpose residential fire protection sprinkler specialist"** means a person who holds an endorsement issued under Section 1301.3565.

(6) **"Plumber's apprentice"** means a person other than a master plumber, journeyman plumber, or tradesman plumber-limited license holder who, as the person's principal occupation, learns about and assists in the installation of plumbing, has fulfilled the requirements of and is registered by the board, and works under the supervision of a responsible master plumber and the direct supervision of a licensed plumber.

(7) **"Plumbing"** means:

(A) a fixture, appurtenance, appliance, or piping, including a disposal system, used to:

- (i) supply, distribute, circulate, or recirculate water, other liquid, or gas; or
- (ii) eliminate sewage for a personal or domestic purpose;

(B) a fixture, appurtenance, appliance, or piping used outside a building to connect the building to:

- (i) a supply of water, other liquid, medical gases and vacuum, or other gas on the premises; or
- (ii) the main in the street or alley or at the curb;

(C) a fixture, appurtenance, appliance, or piping, including a drain or waste pipe, used to carry wastewater or sewage from or within a building to:

- (i) a sewer service lateral at the curb or in the street or alley; or
- (ii) a disposal or septic terminal that holds private or domestic sewage; or

(D) the installation, repair, service, or maintenance of a fixture, appurtenance, appliance, or piping described by Paragraph (A), (B), or (C).

(8) **"Plumbing inspector"** means a person who:

(A) is employed by a political subdivision or state agency, or contracts as an independent contractor with a political subdivision or state agency, to inspect plumbing in connection with health and safety laws, including ordinances, and plumbing and gas codes;

(B) has passed the required examination; and

(C) has fulfilled the other requirements of the board.

(9) **"Residential utilities installer"** means a person who:

(A) has completed at least 2,000 hours working under the supervision of a master plumber as a plumber's apprentice;

(B) has fulfilled the requirements of and is registered with the board; and

(C) constructs and installs yard water service piping for one-family or two-family dwellings and building sewers under the supervision of a responsible master plumber.

(9-a) **"Responsible master plumber"** means a person licensed as a master plumber under this chapter who:

(A) allows the person's master plumber license to be used by one plumbing company for the purpose of offering and performing plumbing work under the person's master plumber license;

(B) is authorized to obtain permits for plumbing work;

(C) assumes responsibility for plumbing work performed under the person's license;

(D) has submitted a certificate of insurance as required by Section 1301.3576; and

(E) has completed a training program required by Section 1301.3576.

(10) **"Tradesman plumber-limited license holder"** means a person who:

(A) has completed at least 4,000 hours working under the direct supervision of a journeyman or master plumber as a plumber's apprentice;

(B) has passed the required examination;

(C) constructs and installs plumbing for one-family or two-family dwellings under the supervision of a responsible master plumber; and;

(D) has fulfilled the other requirements of the board.

(11) **"Water supply protection specialist"** means a person who holds an endorsement issued by the board to engage in:

(A) customer service inspections, as defined by rule of the Texas Commission on

TRANSCRIPT OF 4/9/2013 SENATE DEBATE ON (CS)SB 966

Sen. West: Members, this bill may look complicated, but it really isn't. (CS)SB 966 provides great efficiencies and removes duplication of effort by combining three boards that are currently administratively attached to the Office of Court Administration (OCA.) Those would be the Court Reporters Certification Board, the Guardianship Certification Board, the process server review board into a single entity aptly named the Judicial Branch Certification Commission (JBCC.) In order to ensure consistency, the bill also removes oversight of the Licensed Court [Interpretation] Advisory Board which is currently housed at the Texas Department of Licensing and Regulation to this new entity. The OCA will continue to provide administrative support for the new commission as well as support the advisory boards created by the bill. Each advisory board will serve to provide recommendations to the full Commission regarding the policies and certification of each occupation allowing for a similar level of autonomy that each profession currently realizes but still streamlining the administrative duties of the OCA.

Sen. Birdwell: Thank you Sen. West. I wanted to review the bidding on this bill with you for a moment if I may; some of the historical context because as we chase some rabbits on this, there are some things that concern me that I wanted to address with you and put on the record. There are four entities that we are going to consolidate into one board: the licensed court [interpreter], the guardianship certification, and the court reporters certification board. Those three boards were created by an act of the Legislature, correct?

Sen. West: That is correct.

Sen. Birdwell: Okay, the process server review board was not created by the Legislature. Is that...that's correct?

Sen. West: It was created by...by the Supreme Court. Right.

Sen. Birdwell: Does the Supreme Court have the statutory or constitutional authority to create this board when it did so, I believe back in 2005?

Sen. West. I don't believe that...No, the answer to your question; and that's one of the things that we're cleaning up, now.

Sen. Birdwell: Okay, so, in not having the authority to create that; did they have the authority in not creating it; but to allow it to collect a fee or fine or assessment, that it currently collects, not just the ability to exist; but the ability to be a financially active entity and be able to sustain itself through fines, fees and the like.

Sen. West: Uh, I don't believe it did.

Sen. Birdwell: So, it didn't have that authority to exist or financially sustain itself even after it came into existence. So, what we're doing with this bill is cleaning up this mess but part of the mess we are cleaning up is we are codifying after the fact an entity that we did not authorize nor the court had the ability to implement of its own authority.

Sen. West: Uh, yes. I guess you could say something like that. I mean that's a perspective.

Sen. Birdwell: Here's my... I'm going to support the bill, because we talked about an amendment that will help tighten some of this up. I just simply wanted to express my concern but also ask you what actions we can take in the future because if the Court can take an action outside the bounds of their constitutional authority or what we statutorily grant them, and then we codify it after the fact, are we begging the question or implying and inferring an authority to the Court to continue to take actions outside the bounds we give them, and, if so, how do we check that to ensure we don't have this again from the Court.

Sen. West: I think that you have to look at them on a case by case basis. I mean, obviously the judicial branch is a co-equal branch with the legislature and the executive branch. As an example: the UT Board of Regents is under the executive branch of government and you know what's going on there. So, I think what we have to look at is whether or not a co-branch of government is overstepping their bounds then we look at it on a case by case basis to make a determination as to what the proper response would be from the legislative branch.

Sen. Birdwell: OK, because I'm just very concerned that if we get into the habit of granting permission or granting forgiveness after stepping forward without the authority that we'll beg this to occur more often from the Court and I'd certainly like to help you and ask for your assistance in making sure this type of action doesn't happen outside the bounds of what is properly the legislative branch's purview.

Sen. West: And again, I think you have brought up a great issue. The fact is we need to look at it on a case by case basis to make the determination as to what is an accurate response by the legislative branch of government. I believe by passing this particular bill in this situation, it is the correct response.

Sen. Birdwell: Thank you Sen. West, thank you Mr. President.

The mike was then passed to Sen. Duncan, dealt with court reporter concerns, not transcribed.

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 14-9186

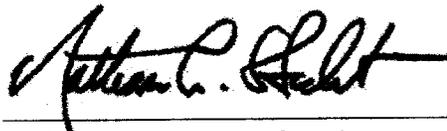
ORDER REGARDING PROCESS SERVERS CERTIFIED BY THE JUDICIAL BRANCH CERTIFICATION COMMISSION

ORDERED that:

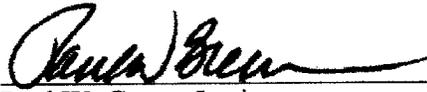
Effective September 1, 2014, a process server certified by the Judicial Branch Certification Commission is “certified under order of the Supreme Court” under Texas Rule of Civil Procedure 103.

Dated: September 30, 2014.

Exhibit G



Nathan L. Hecht, Chief Justice



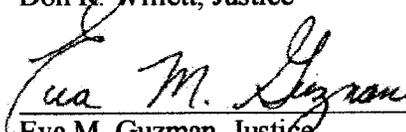
Paul W. Green, Justice



Phil Johnson, Justice



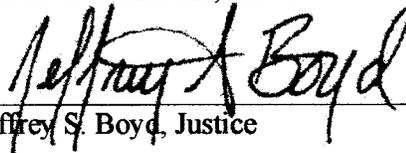
Don R. Willett, Justice



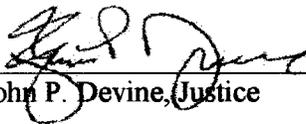
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice