

# Texas Guardianship Registration & Training

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# Guardianship Registration Rules

## Rule 10.2 – Guardianship Registration

- Effective June 1, 2018, all guardianships in the state of Texas must be registered with the Judicial Branch Certification Commission (JBCC).
- All guardianship applicants will be required to submit certain information to JBCC, which will be registered in the guardianship database when the clerk of the court notifies JBCC that the guardian has qualified (oath and bond are filed).
- NOTICE OF THE REQUIREMENT – Probate court clerks and JBCC will provide written notice to all proposed guardians of the registration requirement as well as the criminal history and guardianship training requirements for proposed guardians who are not attorneys, certified guardians or corporate fiduciaries.
- JBCC is working on developing a form for clerks to use to issue the required notices.
- The clerk will notify JBCC by email when the guardian has qualified – [jbccguardianregistration@txcourts.gov](mailto:jbccguardianregistration@txcourts.gov)

# Guardianship Training Rules

## Rule 10.3 – Guardianship Training

- Effective June 1, 2018, a proposed guardian may not be appointed unless they complete the training required under new Sec. 155.204, Government Code.
- EXCEPTIONS TO TRAINING REQUIREMENT –
  - Certified guardians (already registered with JBCC), attorneys and corporate fiduciaries are not required to complete the training.
  - A person applying to be appointed TEMPORARY guardian for no longer than 60 days is not required to complete the training; if the temporary guardianship is extended or made permanent by the Court, the guardian must first complete the required training.
  - The Court may waive the training requirement if the proposed guardian has completed the training less than one year prior to the date of the pending guardianship application.

# Guardianship Training Rules

## Rule 10.3 – Guardianship Training

- ONLINE TRAINING – JBCC will provide online training, or the printed materials and instructions, to the proposed guardian.
- The proposed guardian must complete the training at least 10 days before the hearing on the application.
- The proposed guardian will receive a certificate of completion, and JBCC will notify the Court when they have completed the training.

# Guardianship Training Rules

## Rule 10.4 – Waiver or Postponement of Guardianship Training

- A Court may waive the guardianship training if the proposed guardian has completed the training less than one year prior to the date of the guardianship application.
- A Court may grant a postponement of up to 60 days after qualification for the completion of the training requirement if:
  - The Court makes an immediate appointment of a successor guardian under Sec. 1203.102(b), Estates Code;
  - The Court appoints a temporary guardian under Chapter 1251, Estates Code; or
  - The Court finds that the immediate appointment of a guardian is necessary because of “extraordinary facts and circumstances.”
- COURT NOTICE TO JBCC – If the Court grants a waiver or postponement of the guardianship training under Rule 10.4, the COURT is responsible for notifying JBCC of the waiver or postponement, and the reasons it was granted, within five (5) days after the appointment of the guardian.

# Guardianship Qualification Rules

## Rule 10.5 – Criminal History Background Requirement

- Effective June 1, 2018, JBCC will obtain a criminal history background report for each guardianship applicant who submits the required registration information under Rule 10.1(a) and provide it to the clerk for the exclusive use of the Court.
- EXCEPTIONS – Certified guardians, provisionally certified guardians, attorneys and corporate fiduciaries are not subject to the criminal history background requirement.

# Guardianship Qualification Rules

## Rule 10.5 – Criminal History Background Requirement

- A proposed guardian or temporary guardian may not be appointed unless the criminal history background information is obtained by JBCC and provided to the Court at least 10 days prior to the hearing date.
  - Name (including former names) and date of birth search of DPS criminal history records if the estimated value of the liquid assets of the guardianship estate is \$50,000 or less
  - Fingerprint-based search of FBI criminal history records if the value of the liquid assets of the guardianship estate is more than \$50,000

# Guardianship Qualification Rules

## Rule 10.5 – Criminal History Background Requirement

- Clerk must NOT file the criminal history background report in the court file.
- Hearing may not be held on the application until at least 10 days after the Court has received the criminal history background report.
- JBCC may not disclose the criminal history background information to any person or agency other than the clerk of the court in which the guardianship case is pending or to the court, except upon court order or consent of the proposed guardian.
- JBCC and the clerk of the court may destroy the criminal history background report after it has been used for its intended purpose.
- NOTE: Unauthorized disclosure of criminal history background information is a criminal offense under Sec. 411.085, Government Code.

# Guardianship Registration Rules

## Rule 10.6 – Notice of Guardianship – Entry in Database

- Clerk must notify JBCC of the date of the guardian's qualification (bond and oath filed).
- JBCC will register the guardianship information obtained under Rule 10.2 in the statewide guardianship database.
- If a guardianship application is dismissed, denied or non-suited, the clerk of the Court must notify JBCC within 10 days of such orders; the clerk must notify JBCC if any proposed guardian whose information is on file with the Commission is NOT appointed or fails to qualify for any other reason within 10 days of the date when it becomes clear that the person will not serve as guardian.
- If a Court removes a guardian, or closes a guardianship, the clerk of the Court must *immediately* notify JBCC by email to [jbccguardianregistration@txcourts.gov](mailto:jbccguardianregistration@txcourts.gov).
- If a Court transfers a guardianship to another jurisdiction or venue, the clerk of the Court must notify JBCC within 10 days of receipt of confirmation that the receiving Court has accepted the guardianship by email to [jbccguardianregistration@txcourts.gov](mailto:jbccguardianregistration@txcourts.gov).
- JBCC must update the Guardianship Database upon receipt of any notice from the clerk or the Court of a change, transfer or termination of a registered guardianship.
- JBCC must allow access to the guardianship database only as permitted under Sec. 155.153, Government Code and exclusively for the purposes specified in that section.

# Guardianship Registration Rules

## Rule 10.7 – Registration of Pending and Pre-Existing Guardianships

- APPLICATIONS PENDING AS OF JUNE 1, 2018
  - A Court must provide written notice of registration requirements to a proposed guardian who may be appointed on or after June 1, 2018, pursuant to a guardianship application filed before that date.
  - The proposed guardian must also complete the guardianship training and submit to criminal history background requirement no later than 10 days before the hearing on the application or August 31, 2018, whichever is later.
- PRE-EXISTING GUARDIANSHIPS
  - Each guardian of a guardianship that existed on or before June 1, 2018, must register with JBCC by submitting the information required under Rule 10.2(a) and providing the guardian's qualification date no later than the filing due date of the guardian's next annual report or accounting.
  - The COURT must notify the guardian of this requirement.
  - A guardian appointed and qualified before June 1, 2018, is not required to complete the guardianship training or undergo a criminal history background check unless ordered by the Court.
  - Registration is not required for guardianships that were closed or terminated prior to June 1, 2018.