

**SUBCHAPTER D. EFFECT OF CRIMINAL CONDUCT**  
**28 TAC §§1.504, 1.508, and 1.509**

**INTRODUCTION.** The commissioner of insurance adopts amendments to 28 TAC §§1.504, 1.508, and 1.509, concerning the establishment of a new process for license applicants and others to complete the fingerprinting process. The sections are adopted with nonsubstantive changes to the proposed text published in the January 6, 2023, issue of the *Texas Register* (48 TexReg 19).

**REASONED JUSTIFICATION.** The amendments are necessary to update the fingerprinting process procedure. The new procedure restricts access to the Texas Department of Public Safety (DPS) fingerprint code on the website of the Texas Department of Insurance (TDI or the department). Previously, the DPS fingerprint code could be accessed by anyone who visited TDI's website. The DPS fingerprint code is now available only to those who request a fingerprint service code through TDI's new online portal. TDI updated the fingerprinting process procedure at the request of DPS. Descriptions of the amended sections follow.

**Section 1.504. Fingerprint Requirement.** Amended §1.504 adds language that states for a natural person, agency, or company to be eligible to apply for a license, registration, certification, or association with a regulated agency or company, the applicant must start the application or registration process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at [www.tdi.texas.gov/agent/fingerprinting-process.html](http://www.tdi.texas.gov/agent/fingerprinting-process.html).

The amended section also includes nonsubstantive text changes that update statutory citations to remove redundant information and insert titles of referenced provisions; remove redundant information in an internal reference; replace "pursuant to"

with "under," "prior to" with "before," and "subchapter" with "title"; and correct punctuation.

The text of subsection (c) as proposed is not adopted. Proposed subsection (c) replaced "commissioner" with "Commissioner," but the updated style guide mandates the usage of "commissioner." Given this update, adopted subsection (c) will revert to the rule's original usage of "commissioner."

**Section 1.508. Use and Confidentiality of Fingerprints.** Amended §1.508 includes nonsubstantive text changes that update statutory citations to insert titles of referenced provisions and replace "pursuant to" with "under" and "shall" with "will."

**Section 1.509. Fingerprint Format and Complete Application.** Amended §1.509 adds language that requires individuals having their fingerprints captured by a criminal law enforcement agency to coordinate with the vendor authorized by DPS to obtain a fingerprint card, including paying any upfront processing fees. Amended §1.509 also requires those same individuals to mail the completed card to the vendor authorized by DPS.

Amended §1.509 removes language that allows the department's examination vendor to capture fingerprints. Amended §1.509 also removes language that requires (1) certain individuals to pay the department's examination vendor; and (2) individuals having their fingerprints captured by a criminal law enforcement agency to submit to the department payment for all applicable fingerprint processing fees in the amount and in the manner stated on the department's application or biographical submission form, or as otherwise posted by the department if the individual is not using a department form. Amended §1.509 also removes language that specifies that fingerprint cards may be obtained by sending a written request to the department's Licensing Division and that criminal history processing time and rejection rates for applications and submissions using paper fingerprint cards may be greater than with electronic fingerprints.

There are also nonsubstantive text changes that replace "shall" with "will" or "must," as appropriate, and delete the words "of time." The word "subchapter" is also replaced with "title."

The text of subsections (a) to (c) as proposed is not adopted. Proposed subsections (a) to (c) used the following phrase: "vendor acceptable to the Texas Department of Public Safety." Adopted subsections (a) to (c) replaces "acceptable to" with "authorized by" in order to add specificity. Given this update, adopted subsections (a) to (c) will use the following phrase: "vendor authorized by the Texas Department of Public Safety."

**SUMMARY OF COMMENTS.** TDI did not receive any comments on the proposed amendments.

#### **SUBCHAPTER D. EFFECT OF CRIMINAL CONDUCT** **28 TAC §§1.504, 1.508, and 1.509**

**STATUTORY AUTHORITY.** The commissioner adopts the amendments to §§1.504, 1.508, and 1.509 under Insurance Code §§801.056, 801.155, 981.009, 1305.007, 4001.005, 4056.005, 4101.005, 4102.004, 4151.006, 4152.004, 4153.003, 4201.003, 4202.004(d), and 36.001.

Insurance Code §801.056 provides that the department may deny an application for an authorization if the applicant or a corporate officer of the applicant fails to provide a complete set of fingerprints on request by the department.

Insurance Code §801.155 provides that the department may adopt rules under Chapter 801, Subchapter D prescribing the contents of a petition for issuance or reinstatement of a certificate of authority.

Insurance Code §981.009 provides that the commissioner may adopt rules to implement Chapter 981 or satisfy requirements under federal law or regulations.

Insurance Code §1305.007 provides that the commissioner may adopt rules as necessary to implement Chapter 1305.

Insurance Code §4001.005 provides that the commissioner may adopt rules necessary to implement Insurance Code Title 13 and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4056.005 provides that the commissioner may adopt rules as necessary to implement Chapter 4056, Subchapter A and Subchapter B and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4101.005 provides that the commissioner may adopt rules necessary to implement Chapter 4101 and to meet the minimum requirements of federal law, including regulations.

Insurance Code §4102.004 specifies that the commissioner may adopt reasonable and necessary rules to implement Chapter 4102.

Insurance Code §4151.006 specifies that the commissioner may adopt, in the manner prescribed by Chapter 36, Subchapter A, rules that are fair, reasonable, and appropriate to augment and implement Chapter 4151.

Insurance Code §4152.004 specifies that the commissioner may adopt reasonable rules as necessary to implement Chapter 4152.

Insurance Code §4153.003 specifies that the commissioner may adopt rules necessary to carry out Chapter 4153 and to regulate risk managers.

Insurance Code §4201.003 specifies that the commissioner may adopt rules to implement Chapter 4201.

Insurance Code §4202.004(d) provides that the commissioner will require that each officer of an applicant and each owner or shareholder of the applicant or, if a purchaser is publicly held, each owner or shareholder described by §4202.004(a)(1), submit a complete and legible set of fingerprints to the department for the purpose of obtaining

criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation. The department will conduct a criminal history check of each applicant using information (1) provided under Insurance Code §4202.004; and (2) made available to the department by the Texas Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Government Code Chapter 411.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

**TEXT.****§1.504. Fingerprint Requirement.**

(a) In the manner described in §1.509 of this title (relating to Fingerprint Format and Complete Application), each individual listed in §1.503 of this title (relating to Application of Fingerprint Requirement) must, at or near the same time that they submit their biographical information or application for licensure, registration, authorization, certification, or permit, also submit:

(1) a complete set of the individual's fingerprints;

(2) full payment for all processing fees charged by the Texas Department of Public Safety and the Federal Bureau of Investigation; and

(3) all additional identifying information required by the Texas Department of Public Safety and the Federal Bureau of Investigation for processing fingerprints.

(b) An individual listed in §1.503 of this subchapter is exempt from the requirement set forth in subsection (a) of this section if the individual satisfies the requirements of this subsection.

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(1) Except as provided in subsection (d) of this section, the individual is submitting an application or biographical information, and:

(A) previously provided the department a complete, legible fingerprint card or electronic set of fingerprints as part of an earlier submission which was granted or approved; and

(B) maintains that prior license, or licensed entity association, in good standing on the date of the subsequent application.

(2) The individual is licensed, or associated with an entity licensee, under Insurance Code Chapter 981, Subchapter E, concerning Surplus Lines Agents, or Title 13, concerning Regulation of Professionals, and is:

(A) renewing an unexpired license or license that has been expired for not more than 90 days; or

(B) applying for a license that has been expired for more than 90 days but not more than one year.

(3) The individual is applying for an original emergency license under Insurance Code Chapter 4051, concerning Property and Casualty Agents; Chapter 4053, concerning Managing General Agents; or Chapter 4101, concerning Insurance Adjusters. Emergency licensees who later qualify for a permanent license by examination must submit a complete set of fingerprints and payment of all fingerprint processing fees before issuance of the permanent license.

(4) The individual, or the entity with which the individual is associated, is renewing an unexpired license, certification, registration, or authorization.

(5) The individual is licensed under Insurance Code Chapter 2651, Subchapter A, concerning Title Insurance Agent's License, or Chapter 2652, concerning Escrow Officers, and is renewing an unexpired license or license that has been expired for not more than 90 days.

(6) The individual is submitting an application under Insurance Code Chapter 2651<sub>1</sub>, Subchapter A<sub>1</sub> or Chapter 2652 and has previously provided the department a complete, legible fingerprint card or electronic set of fingerprints as part of an earlier Insurance Code Chapter 2651<sub>1</sub>, Subchapter A<sub>1</sub> or Chapter 2652 submission that was granted or approved; and either:

(A) maintains that prior license in good standing on the date of the current application; or

(B) held a prior Insurance Code Chapter 2651<sub>1</sub>, Subchapter A<sub>1</sub> or Chapter 2652 license that has not been canceled for more than 60 days and maintained that license in good standing at the time of cancellation.

(c) The commissioner may waive the requirement in subsection (a) of this section if the commissioner determines that the individual is unable to provide fingerprints due to permanent physical injury or illness. The individual seeking a waiver under this subsection must submit evidence of such a condition to the satisfaction of the commissioner.

(d) The exemption set forth in subsection (b)(1) of this section is subject to the department's ability to maintain an individual's previously submitted set of fingerprints, and the department may require a complete set of fingerprints and payment of all fingerprint processing fees from an individual notwithstanding the exemption.

(e) This subchapter does not limit the department's statutory authority to require the submission of fingerprints or obtain criminal history information.

(f) For a natural person, agency, or company to be eligible for a license, registration, certification, or association with a regulated agency or company, the natural person, agency, or company must start the application or association process by submitting a formal request for a fingerprint service code by completing the fingerprinting process information required on the department's website at

[www.tdi.texas.gov/agent/fingerprinting-process.html](http://www.tdi.texas.gov/agent/fingerprinting-process.html). The requesting agency, company, or natural person must submit information necessary to complete the fingerprint service code request, including:

(1) the agency's name, agency representative's name, agency's email address, and license type the agency is applying for, if applying for association with an agency;

(2) the company's name, company representative's name, and company's email address, if applying for association with a company; and

(3) the natural person's name, state of residence, email address, and license type the natural person is applying for, if applying for a license as a natural person.

**§1.508. Use and Confidentiality of Fingerprints.**

(a) The department will submit all fingerprints received under this subchapter to the Texas Department of Public Safety and the Federal Bureau of Investigation to obtain criminal history information on the individual for the purpose of determining the individual's fitness for licensure, authorization, certification, permit, or registration, or control of an entity holding or seeking a license, authorization, certificate, permit, or registration.

(b) The department will use and maintain all criminal history information obtained under this subchapter in accordance with state and federal laws, including:

(1) Texas Government Code §411.106, concerning Access to Criminal History Record Information: Texas Department of Insurance;

(2) Texas Government Code §411.084, concerning Use of Criminal History Record Information;

(3) United States Public Law 92-544; and

(4) Code of Federal Regulations 28 CFR 50.12.



**§1.509. Fingerprint Format and Complete Application.**

(a) Each individual described in §1.503 of this title (relating to Application of Fingerprint Requirement) and who is required to submit fingerprints under §1.504 of this title (relating to Fingerprint Requirement) must have a complete set of their fingerprints captured by:

(1) an electronic fingerprint vendor authorized by the Texas Department of Public Safety; or

(2) a criminal law enforcement agency, including a sheriff's office or police department.

(b) Individuals having their fingerprints captured by a vendor authorized by the Texas Department of Public Safety must pay, in a manner acceptable to the vendor, all fingerprint capture and processing fees directly to the vendor at the time the fingerprints are captured or at such time as is acceptable to the vendor.

(c) Individuals having their fingerprints captured by a criminal law enforcement agency must:

(1) coordinate with the vendor authorized by the Texas Department of Public Safety to obtain a fingerprint card, including paying any upfront processing fees;

(2) pay that agency any associated charges that may apply to the capture of their fingerprints in a manner acceptable to that agency; and

(3) mail the completed card to the vendor authorized by the Texas Department of Public Safety.

(d) All fingerprint impressions must be legible and suitable for use by the Texas Department of Public Safety and Federal Bureau of Investigation.

(e) Individuals required to submit fingerprints must submit them within the time frame indicated on the specific application or biographical submission form. Individuals

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may request an extension by contacting the division of the department that will process the application or biographical submission.

(f) The application or submission of a person required to submit fingerprints will not be complete until the department receives the criminal history information.

**CERTIFICATION.** This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on March 24, 2023.

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*Jessica Barta*  
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Jessica Barta, General Counsel  
Texas Department of Insurance

The commissioner adopts the amendments to 28 TAC §§1.504, 1.508, and 1.509.

DocuSigned by:  
*Cassie Brown*  
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Cassie Brown  
Commissioner of Insurance

Commissioner's Order No. 2023-7862