

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~[Square brackets and strikethrough]~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 1. OFFICE OF THE GOVERNOR

CHAPTER 3. CRIMINAL JUSTICE DIVISION

SUBCHAPTER H. TEXAS CRIME STOPPERS PROGRAM

1 TAC §§3.9000, 3.9005 - 3.9007, 3.9011, 3.9015, 3.9017, 3.9019, 3.9021, 3.9025

The Texas Crime Stoppers Council (Council) proposes amendments to 1 TAC §§3.9000, 3.9005 - 3.9007, 3.9011, 3.9015, 3.9017, 3.9019, and 3.9021, concerning the functions of the Council under Chapter 414 of the Texas Government Code. The Council also proposes a new rule at 1 TAC §3.9025, concerning the use of excess funds by crime stoppers organizations under §414.010(d) of the Texas Government Code.

EXPLANATION OF PROPOSED AMENDMENTS AND NEW RULE

The Council is responsible for encouraging, advising, and assisting in the creation of crime stoppers organizations (organizations) and the implementation of their programs, as well as fostering the detection of crime and carrying out other duties described in Chapter 414 of the Texas Government Code. The primary purpose of the proposed amendments to the existing rules is to update policies and procedures to provide a smoother operating framework for the Council and the organizations. The proposed amendments, as well as the new rule, are also in response to statutory revisions to the Texas Government Code enacted by the 86th Legislature, Regular Session, in House Bill 3316 (HB 3316).

The proposed amendments to 1 TAC §3.9000 would adjust the timing and required documentation for an organization to submit, and the Council to take action on, the organization's application for continuing certification, as well as how such renewal process affects the organization's existing certification. The Council also proposes to allow the director of the Council (Director) or the Council to specify other information for inclusion in applications for certification at their discretion, and to change the applicable accounts and timing of financial statements that must be included in applications for continuing certification. The Council further proposes to allow organizations applying for renewal of their certification to complete their training requirements at any point during their current certification, instead of twelve months prior to application, as is the current standard.

The proposed amendments to §3.9005 would allow the Chairman, in addition to the Council itself, to notify an organization that the Council will consider its decertification at an upcoming

meeting and would clarify the content of such notice. In addition, the Council proposes to create a process through which the Director can address risk of noncompliance with the laws and rules governing crime stoppers organizations by either placing an organization on a corrective action plan or recommending it to the Council for decertification. The proposed amendments to §3.9015 would also implement this process to address any noncompliance that was identified by the Office of the Governor, Criminal Justice Division, while conducting a financial or programmatic review or audit of the organization.

The proposed amendments to §3.9006 would clarify how an organization's certification expires or is not renewed and would also clarify the content of the notice to an organization that the Council is considering the renewal of its certification.

The proposed amendments to §3.9007 would allow more flexibility in determining the effective date of decertification for organizations that are winding down or not seeking to renew their certification. The Council further proposes to amend §§3.9005 - 3.9007 to implement new close-out reporting requirements for de-certified, expiring, and dissolving organizations.

The Council's current rules at §§3.9010, 3.9011, and 3.9013 require organizations to report certain information to the Council or the Director. The proposed amendments to §3.9011 would add the reporting requirements from §§3.9010 and 3.9013, which are proposed for repeal in another notice, to §3.9011 to consolidate reports. The Council also proposes to allow the Director or the Council to request additional information in the annual report, change the frequency of the required statistical report from quarterly to semi-annually, and require a report within 30 days if an organization changes the composition of its executive board or its executive director (if applicable) or law enforcement coordinator.

The Council's current rules at §§3.9017, 3.9019, and 3.9021 contain procedures for merging organizations and changing the territory of a certified organization. The proposed amendments to §§3.9017, 3.9019, and 3.9021 would give the Council and the Director discretion to request any other helpful information in assessing the mergers or expansions, as applicable, and would require merging or expanding organizations to provide reviews of all financial accounts over a different time period, but no longer require that financial reviews be conducted by a certified public accountant. The Council further proposes to clarify the continuing certification process for merging and expanding organizations. The proposed amendments to §§3.9017 and 3.9019, in particular, would allow the Director to specify which merger, dissolution, and compliance forms should be submitted, and would make other changes to reflect that more than one excess funds account can be created. Other proposed amendments to §3.9019 would allow a previously certified organization to submit additional forms of proof that it repaid outstanding

fees to the Office of the Comptroller. The Council also proposes to require interest from a law enforcement agency, rather than the citizens, of an area seeking to join an existing organization under the proposed amendments to §3.9021. Finally, the Council proposes to end a prohibition on merged organizations establishing excess funds accounts in the first three years after their merger.

The existing rules that the Council proposes to amend are revised to update the rule based on current statute and to make other clean-up changes, such as to defined terms and cross-references.

As enacted by the 86th Legislature, Regular Session, HB 3316 removed from statute the formula for determining the amount of funds that organizations could move from their rewards accounts into excess funds accounts, and instead left such amount to be determined by Council rule. HB 3316 also provided for the Council to issue rules explaining the "law enforcement or public safety purposes relating to crime stoppers or juvenile justice" for which excess funds may be used. The proposed new §3.9025 sets out the formula for funds that may be deposited into excess funds accounts and defines such law enforcement or public safety purposes.

FISCAL NOTE

Margie Fernandez-Prew, Director of the Texas Crime Stoppers Council, has determined that for each year of the first five years in which the proposed amendments and new rule are in effect, there are no expected fiscal implications for the state or local governments as a result of enforcing or administering the proposed amendments and new rule. Ms. Fernandez-Prew has further determined that the proposed amendments and new rule may affect certain local economies and geographic areas differently than other local economies and geographic areas depending on which areas have organizations in operation. But the effect on any particular local economy or geographic area is unknown. There is no anticipated effect on local employment or local economies as a whole because the aggregate amount of expenditures made by organizations should remain unchanged as a result of the proposed amendments and new rule.

PUBLIC BENEFIT AND COSTS

Ms. Fernandez-Prew has also determined that for each year of the first five years in which the proposed amendments and new rule are in effect, the public benefit anticipated as a result of enforcing or administering the proposed amendments and new rule will be to implement the statutory changes made by HB 3316 and to allow the Council greater efficiency in administering their operations and certifying and assisting organizations. There are no anticipated economic costs to persons required to comply with the proposed amendments and new rule. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Finally, Ms. Fernandez-Prew has determined that for each year of the first five years in which the proposed amendments and new rule are in effect, the amendments and new rule will have the following effect on government growth. Neither the proposed amendments nor the new rule will create or eliminate any government programs or employee positions. Additionally, neither the proposed amendments nor the new rule will require

an increase or decrease in future legislative appropriations to the Council or change any fees paid to the Council. The proposed new rule creates a new regulation at §3.9025 in response to statutory changes enacted by HB 3316. The proposed amendments expand certain existing regulations, including by giving the Director authority to place an organization that is at risk of no longer meeting the certification requirements or crimes on a corrective action plan. The proposed amendments also limit other existing regulations in that they streamline and clarify certification and review requirements. While no rules are repealed in their entirety in this notice, the proposed amendments do remove the ability to extend the certification period for an organization, the requirement that financial reviews be conducted by a certified public accountant, the limitation on merging organizations from forming excess funds accounts, and other changes in order to update to the current statute. Furthermore, neither the proposed amendments nor the new rule increases or decreases the number of individuals subject to the applicability of the rules. The proposed amendments and new rule are not anticipated to affect this state's economy.

SUBMITTAL OF COMMENTS

Written comments regarding the proposed rule amendments or new rule may be submitted to Margie Fernandez-Prew, Office of the Governor, Texas Crime Stoppers Council, P.O. Box 12428, Austin, Texas 78711 or to txcrimestoppers@gov.texas.gov with the subject line "Council Rules." The deadline for receipt of comments is 5:00 p.m. CST on February 3, 2020. All requests for a public hearing on the proposed rule amendments or new rule, submitted under the Administrative Procedure Act, must be received by the Council no more than fifteen (15) days after the notice of proposed changes and additions in the sections have been published in the *Texas Register*.

STATUTORY AUTHORITY

The amendments and new rule are proposed under Government Code, §414.006, which provides that the Council may adopt rules to carry out its functions under that chapter.

Cross Reference to Statute:

Chapter 414, Government Code, as amended by House Bill 3316, 86th Legislature, Regular Session.

§3.9000. Certification.

(a) The Texas Crime Stoppers Council (Council) shall, on application by a crime stoppers organization as defined by §414.001(2) of the Texas Government Code (organization), determine whether the organization meets the requirements to be certified to receive repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A [Article 42.12] of the Texas Code of Criminal Procedure.

(b) The Council shall[, in its discretion,] certify a crime stoppers organization to receive those repayments or payments if, considering the organization, continuity, leadership, community support, and general conduct of the organization, the Council determines that the repayments or payments will be spent to further the crime prevention purposes of the organization.

(c) Certification is valid for two years from the date of issuance or, if applicable, the effective date of continued certification. The Council may take action on a crime stoppers organization's Application for Continuing Certification prior to the expiration of the organization's current certification, and specify the effective date of the continued certification, provided that the effective date is no later than the expiration date of the current certification. If a crime stoppers or-

ganization's certification expires, the organization is not eligible to receive repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A [Article 42.12] of the Texas Code of Criminal Procedure, until the organization obtains certification. [The two-year certification period may be extended under the following circumstances:]

[(1) If an organization's application to renew its certification is received by the director of the Council before the two-year certification period expires, the organization's certification shall continue in effect until the Council makes a decision regarding the renewal of its certification.]

[(2) The chairman of the Council may extend the two-year certification period for a period of time not to exceed 90 days if:]

[(A) one of the following extenuating circumstances occurs before the two-year certification period expires:]

[(i) natural or man-made disaster;]

[(ii) serious illness, incapacity, or death of the chairman, treasurer, or secretary of the organization's board of directors;]

[(iii) serious illness, incapacity, or death of one of the organization's law enforcement/civilian coordinators; or]

[(iv) death of a member of the immediate family of one of the officials listed in clauses (ii) and (iii) of this subparagraph;]

[(B) one of the extenuating circumstances listed in subparagraph (A) of this paragraph has a detrimental effect on the organization's ability to submit an application for certification before the two-year certification period expires; and]

[(C) the director of the Council receives the organization's written request to extend the certification period no later than 20 calendar days after one of the extenuating circumstances listed in subparagraph (A) of this paragraph occurs.]

(d) A private, nonprofit crime stoppers organization must submit the following information to the director of the Council in order to obtain initial certification:

(1) Documentation from the Internal Revenue Service granting the organization tax-exempt status;

(2) Proof that the following persons completed a training course provided by the Criminal Justice Division of the Office of the Governor (CJD) [CJD] and the Council, or their designee, within the year prior to submission of the organization's [its] application for certification:

(A) one member of the organization's board of directors;[;] and

(B) one of the organization's law enforcement/civilian coordinators; and

(C) the executive director of the organization (if applicable);

(3) A completed and signed Conditions of Certification Form;

(4) The name, mailing address, email address, telephone number, occupation, and board position of each member of the organization's board of directors;

(5) The name, mailing address, email address, and telephone number of each of the organization's law enforcement/civilian coordinators;

(6) The name, mailing address, email address, telephone number, and occupation of the executive director (if applicable); [and]

(7) The description of the geographic territory or jurisdiction to which the organization desires to provide services; and

(8) Any additional information requested or specified by the Council or the director of the Council.

(e) A public crime stoppers organization must submit the following information to the director of the Council in order to obtain initial certification:

(1) Proof that one of the organization's law enforcement/civilian coordinators completed a training course provided by CJD and the [Texas Crime Stoppers] Council, or their designee, within the year prior to submission of the organization's [its] application for certification;

(2) A completed and signed Conditions of Certification Form;

(3) The name, mailing address, email address, telephone number, occupation, and board position of each member of the organization's governing board;

(4) The name, mailing address, email address, and telephone number of each of the organization's law enforcement/civilian coordinators;

(5) The name, mailing address, email address, telephone number, and occupation of the organization's executive director (if applicable); [and]

(6) The description of the geographic territory or jurisdiction to which the organization desires to provide services; and

(7) Any additional information requested or specified by the Council or the director of the Council.

(f) If the organization is currently certified by the Council, the organization must submit the documentation described in subsection (d) or (e) of this section, as applicable, with the exception of the training documentation required by subsections (d)(2) and (e)(1) of this section, and the following additional information [every two years] as part of its Application for Continuing [Continued] Certification, in each case no more than 240 days and no less than 180 days prior to the expiration of the current certification:

(1) [financial] statements for all financial accounts covering the [two-year certification] period from the beginning of the calendar year of the date of submission of the previous application to the present, showing beginning and ending balances for each calendar year and the current year-to-date, for all accounts containing funds originally obtained from repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A of the Texas Code of Criminal Procedure, on a form prescribed by the Council;

(2) documentation from the relevant courts or government agencies stating the amount of probation fees disbursed to the organization during the [two-year certification] period described in paragraph (1) of this subsection;

(3) any Crime Stoppers Program Annual [Probation Fee and Repayment] Reports that have not been submitted to the director of the Council as required by §3.9011 [~~§3.9010~~] of this chapter; [and]

(4) any [Quarterly] Statistical Reports that have not been submitted to the director of the Council or the Council's designee as required by §3.9013 of this chapter;

(5) proof that the following persons completed a training course provided by CJD and the Council, or their designee, after the date of issuance or the effective date, as applicable, of the current certification:

(A) one member of a private, nonprofit organization's board of directors (if applicable);

(B) one of the organization's law enforcement/civilian coordinators; and

(C) the executive director of a private, nonprofit organization (if applicable); and

(6) any additional information requested or specified by the Council or the director of the Council.

(g) Certification awarded to an organization is awarded only as to the specific geographic territory or jurisdiction described in the certification award.

(h) Decisions regarding the certification of crime stoppers organizations shall be made by the Council.

(i) The Council reserves the right to consider and take action on an incomplete Application for Continuing Certification if the Council determines from the information provided that the crime stoppers organization meets the certification requirements described in §414.011, Texas Government Code.

§3.9005. Decertification.

(a) During the two-year certification period, the Council shall [Texas Crime Stoppers Council (Council) may, in its discretion,] decertify a crime stoppers organization if it determines that the organization no longer meets the certification requirements described in §3.9000(b) [§3.9000] of this chapter, which may include a violation of state law, federal law, or Subchapter H of this chapter.

(b) If a crime stoppers organization is decertified by the Council, the organization is not eligible to receive repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A [Article 42.12] of the Texas Code of Criminal Procedure.

(c) The Council, or the Chairman of the Council, shall send written notification to the crime stoppers organization no later than 45 calendar days prior to the meeting at which the Council will consider the decertification of the organization. The written notification shall include the following:

(1) Reasons why the organization may no longer meet [Any noncompliance with] the certification requirements described in §3.9000(b) of this chapter; and

(2) The date, time, and location of the meeting at which the Council will consider the decertification of the organization.

(d) The crime stoppers organization shall submit a written response, which shall include an explanation and specific reasons why the organization believes that it should not be decertified. The written response must be received by the director of the Council at least 10 calendar days prior to the meeting at which the Council will consider the decertification of the organization.

(e) The Council shall render a decision regarding the decertification of the crime stoppers organization and shall notify the organization in writing of its decision.

(f) If a crime stoppers organization is decertified, the director of the Council shall notify the state comptroller, and the relevant courts, county auditors and community supervision and corrections de-

partments in the organization's region, that the organization is decertified and is not eligible to receive repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A [Article 42.12] of the Texas Code of Criminal Procedure.

(g) Not later than the 60th day after the date of decertification of the organization, the decertified organization shall forward all unexpended money received pursuant to §414.010 of the Texas Government Code [under this section] to the state comptroller and shall submit reports as required in §3.9011(b)(5) and §3.9011(d) of this chapter, covering the period since the last submitted reports, and any other information prescribed by the director of the Council or the Council.

(h) The director of the Council may determine that a certified crime stoppers organization is at risk of no longer meeting the certification requirements or duties described in §3.9000 of this chapter. If the director of the Council makes such a determination, the director of the Council may place the organization on a corrective action plan that specifies actions to be taken by the organization by a specified time, or the director of the Council may recommend to the Council that the organization be considered for decertification.

§3.9006. Expiration or Non-Renewal of Certification.

(a) At the end of the two-year certification period, [the Texas Crime Stoppers Council (Council) may, in its discretion, allow] a crime stoppers organization's certification will [to] expire [or vote to not renew its certification].

(b) If a crime stoppers organization's certification expires or is not renewed, the organization is not eligible to receive repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A [Article 42.12] of the Texas Code of Criminal Procedure.

(c) If an organization has submitted a timely application to renew its certification:

(1) The Council shall send written notification to the crime stoppers organization no later than 45 calendar days prior to the meeting at which the Council will consider the renewal of certification of the organization. The written notification shall include the following:

(A) Any reasons why the organization may no longer meet [Any noncompliance with] the certification requirements described in §3.9000(b) [§3.9000] of this chapter; and

(B) The date, time, and location of the meeting at which the Council will consider the certification renewal of the organization.

(2) The crime stoppers organization may submit a written response, which shall include an explanation and specific reasons why the organization believes that its certification should be renewed. The written response must be received by the director of the Council at least 10 calendar days prior to the meeting at which the Council will consider the renewed certification [decertification] of the organization.

(3) The Council shall render a decision regarding the certification renewal of the crime stoppers organization and shall notify the organization in writing of its decision.

(d) If a crime stoppers organization's certification expires or is not renewed, the director of the Council shall notify the state comptroller, and the relevant courts, county auditors and community supervision and corrections departments in the organization's region, that the organization is decertified and is not eligible to receive repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A [Article 42.12] of the Texas Code of Criminal Procedure.

(e) Not later than the 60th day after the date of expiration or non-renewal of the certification of the organization, the organization shall forward all unexpended money received pursuant to §414.010 of the Texas Government Code [under this section] to the state comptroller and shall submit reports as required in §3.9011(b)(5) and §3.9011(d) of this chapter, covering the period since the last submitted reports, and any other information prescribed by the director of the Council or the Council.

§3.9007. Closing of Business.

(a) If a crime stoppers organization chooses to no longer operate or to dissolve during its two-year certification period or if the organization chooses to not apply for renewal of its certification, the organization shall send written notification to the Texas Crime Stoppers Council (Council).

(b) The organization may request an effective date of decertification in the notification. The written notification will [effectively] decertify the organization, effective on a date determined by the director of the Council, provided that the effective date is no later than the expiration date of the current certification or the date requested by the organization, whichever is earlier. [The date of the notification will serve as the date of decertification.]

(c) The closed or dissolved organization is not eligible to receive repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A [Article 42.12] of the Texas Code of Criminal Procedure.

(d) Upon receipt of this notification and effective decertification, the director of the Council shall notify the state comptroller, and the relevant courts, county auditors and community supervision and corrections departments in the organization's region, that the organization is decertified and is not eligible to receive repayments of rewards under Articles 37.073 and 42.152 of the Texas Code of Criminal Procedure, or payments from a defendant under Chapter 42A [Article 42.12] of the Texas Code of Criminal Procedure.

(e) Not later than the 60th day after the date of dissolution or decertification of the organization, the dissolved or decertified organization shall forward all unexpended money received pursuant to §414.010 of the Texas Government Code [under this section] to the state comptroller and shall submit reports as required in §3.9011(b)(5) and §3.9011(d) of this chapter, covering the period since the last submitted reports, and any other information prescribed by the director of the Council or the Council.

§3.9011. Crime Stoppers Program Reporting [Information Update Form].

(a) A crime stoppers organization that is certified by the [Texas Crime Stoppers] Council [(Council)] must submit to the director of the Council a Crime Stoppers Program Annual Report [Information Update Form] no later than January 31 of each calendar year.

(b) A Crime Stoppers Program Annual Report [Information Update Form] must include the following information:

(1) The name, mailing address, email address, and telephone number of the crime stoppers organization, and the internet address of any website operated by the organization;

(2) The name, mailing address, email address, telephone number, occupation, and board position of each member of the organization's governing board;

(3) The name, mailing address, email address, telephone number, and occupation of the organization's executive director (if applicable); [and]

(4) The name, mailing address, email address, and telephone number of each of the organization's law enforcement/civilian coordinators;[.]

(5) A report on the probation fees and repayments received by the organization including such information and in a manner prescribed by the director of the Council or the Council; and

(6) Any other information prescribed by the director of the Council or the Council.

(c) A crime stoppers organization that is certified by the Council must submit to the director of the Council an information update form prescribed by the director of the Council or the Council within 30 days if the organization has a change in the composition of its executive board or its executive director (if applicable) or law enforcement coordinator.

(d) A crime stoppers organization that is certified by the Council shall submit to the director of the Council, or the Council's designee, a Statistical Report on a form prescribed by the Council no later than January 31 and July 31 of each calendar year.

§3.9015. Review.

By accepting certification, a crime stoppers organization agrees to the following conditions of review:

(1) CJD will review the activities of a crime stoppers organization that is certified by the Texas Crime Stoppers Council (Council) as necessary to ensure that the organization's finances and programs further the crime prevention purposes of the organization in compliance with the laws and rules governing crime stoppers organizations.

(2) CJD may perform a desk review or an on-site review at the organization's location. In addition, CJD may request that the organization submit relevant information to CJD to support any review.

(3) After a review, the organization shall be notified in writing of any noncompliance identified by CJD in the form of a preliminary report.

(4) The organization shall respond to the preliminary report within a time frame specified by CJD.

(5) The organization's response shall become part of the final report, which shall be submitted to the organization and the director of the Council.

(6) The director of the Council may place an organization in noncompliance on a corrective action plan that specifies actions to be taken by the organization by a specified time, or the director of the Council may recommend to the Council that the organization be considered for decertification or non-renewal of certification of the organization by the Council.

(7) Any noncompliance, including an organization's failure to provide adequate documentation upon request, may serve as grounds for decertification[, expiration] or non-renewal of certification of the organization by the Council.

§3.9017. Mergers of Certified Organizations.

If a certified crime stoppers organization agrees with another certified crime stoppers organization to merge and form a multi-county or multi-jurisdictional (e.g. [i.e.], county and city) organization, the merged organization must apply for continuing certification, and the following procedures must be followed:

(1) The certified crime stoppers organizations that want to merge must have contiguous borders.

(2) The merging organizations must choose a name for the merged organization unless both organizations agree to operate under the name of one of the existing organizations.

(3) The merged organization must file the following documents with the director of the Texas Crime Stoppers Council (Council) requesting certification under a new name (if applicable) and with the expanded geographic territory or jurisdiction:

(A) All required Texas Secretary of State, Texas Comptroller, and United States Internal Revenue Service (IRS) required forms and documentation for mergers and dissolutions, as applicable, or as specified by the director of the Council;

(B) IRS compliance documents for dissolution of a 501(c)(3) non-profit corporation and a 501(c)(3) letter authorizing the organization to operate under the new name (if applicable);

(C) Texas Secretary of State compliance documents for 501(c)(3) non-profit corporations, as applicable, or as specified by the director of the Council;

(D) Application for Continuing Certification under the new name (if applicable) and with an expanded geographic territory or jurisdiction;

(E) Statements for all financial accounts for [Copies of financial reviews of the restricted court fees accounts for] all merging organizations as required in §3.9000(f)(1) of this chapter [as required in §414.010(b), Texas Government Code; these financial reviews must be conducted by a Certified Public Accountant];

(F) Copy of board of directors membership list of the merged organization, to include contact information for board members, the law enforcement coordinator, and the executive director (if applicable);

(G) Copies of letters from community supervision and corrections departments (CSCD) detailing the amount of court fees paid to the merging organizations during the previous two years, up to and including the date of the proposed merger, under the provisions of Articles [42.12,] 37.073 and 42.152 and Chapter 42A, Texas Code of Criminal Procedure;

(H) Training certificates showing that at least one board member (if applicable), the law enforcement coordinator, and an executive director (if applicable) received training as authorized by the Council within the 12-month period preceding the merger;

(I) Copies of Crime Stoppers Program Annual [Probation Fee and Repayment] Reports for the merging organizations for the previous two calendar years as specified by §414.010(a), Texas Government Code;

(J) Copies of the minutes of the boards of directors meetings of both certified crime stoppers organizations in which the boards voted to merge their organizations; [and]

(K) Copy of a cooperative agreement or memorandum of understanding (MOU) between the merged organizations regarding the merger and a copy of each organization's minutes of the board of directors for the meeting where the agreement or MOU is approved; and

(L) Any other information or documents prescribed by the director of the Council or the Council.

(4) If the director of the Council determines that the merged organization meets all requirements within paragraphs (1) - (3) of this section, the merged organization will be presented to the Council for

determination as to whether the merged organization meets the requirements for certification at the Council's next regularly scheduled meeting.

(5) Once the Council grants certification, the merged organization may merge or consolidate the separate rewards accounts of both organizations. The merged organization will also be eligible to apply to the relevant CSCDs to receive court fees under the provisions of Articles [42.12,] 37.073[,] and 42.152 and Chapter 42A, Texas Code of Criminal Procedure.

(6) The merged organization's "Excess Funds Accounts [Account]," as described [defined] in §414.010(d) of the Texas Government Code, may only be comprised of those funds that were previously in each individual organization's "Excess Funds Accounts [Account]." [Three years from the merged organization's certification date, the merged organization may establish an "Excess Funds Account" in accordance with §414.010(d) of the Texas Government Code.]

(7) The certification is valid for a period of two years.

§3.9019. *Mergers of Non-certified Organizations to Certified Organizations.*

If a certified crime stoppers organization agrees with a non-certified crime stoppers organization to merge and form a multi-county or multi-jurisdictional (e.g. [i.e.], county and city) organization, the merged organization must apply for continuing certification, and the following procedures must be followed:

(1) The certified crime stoppers organization that wants to merge with a non-certified 501(c)(3) crime stoppers organization must have contiguous borders.

(2) The merging organizations must choose a name for the merged organization unless both organizations agree to operate under the name of one of the existing organizations.

(3) The merged organization must file the following documents with the director of the Texas Crime Stoppers Council (Council) requesting certification under a new name (if applicable) and with the expanded geographic territory or jurisdiction:

(A) All required Texas Secretary of State, Texas Comptroller, and United States Internal Revenue Service (IRS) required forms and documentation for mergers and dissolutions, as applicable, or as specified by the director of the Council;

(B) IRS compliance documents for dissolution of a 501(c)(3) non-profit corporation and a 501(c)(3) letter authorizing the organization to operate under the new name (if applicable);

(C) Texas Secretary of State compliance documents for 501(c)(3) non-profit corporations, as applicable, or as specified by the director of the Council;

(D) Application for Continuing Certification under the new name (if applicable) and with an expanded geographic territory or jurisdiction;

(E) Statements for all financial accounts [Copies of financial reviews of the restricted court fees accounts] for the certified crime stoppers organization as required in §3.9000(f)(1) of this chapter [as required in §414.010(b), Texas Government Code; these financial reviews must be conducted by a Certified Public Accountant];

(F) Statements for all financial [Copies of financial reviews of all bank] accounts showing beginning and ending balances for each of the prior two calendar years and the current year-to-date

held by the non-certified 501(c)(3) crime stoppers organization; [these financial reviews must be conducted by a Certified Public Accountant;]

(G) If the financial review establishes that at any time the non-certified 501(c)(3) crime stoppers organization was certified by the Council and received court fees under Articles [42.12,] 37.073 and 42.152 and Chapter 42A, Texas Code of Criminal Procedure, and failed to return all court fees to the state comptroller within 60 days following the loss of certification, as required by §414.010(c), Texas Government Code, a copy of the check for the outstanding court fees, made payable to the Office of the Comptroller, or other satisfactory proof, must be submitted with the application for certification;

(H) Copy of board of directors membership list of the merged organization, to include contact information for board members, the law enforcement coordinator, and executive director (if applicable);

(I) Copies of letters from the community supervision and corrections departments (CSCD) detailing the amount of court fees paid to the certified crime stoppers organization during the previous two years, up to and including the date of the proposed merger, under the provisions of Articles [42.12,] 37.073 and 42.152 and Chapter 42A, Texas Code of Criminal Procedure;

(J) Training certificates showing that at least one board member (if applicable), the law enforcement coordinator, and an executive director (if applicable) received training as authorized by the Council within the 12-month period preceding the merger;

(K) Copies of Crime Stoppers Program Annual [Probation Fee and Repayment] Reports for the certified crime stoppers organization for the previous two calendar years as specified by §414.010(a), Texas Government Code;

(L) Copies of the minutes of the boards of directors meetings of the certified crime stoppers organization and the non-certified 501(c)(3) crime stoppers organization in which the boards voted to merge their organizations; [and]

(M) Copy of a cooperative agreement or memorandum of understanding (MOU) between the merged organizations regarding the merger and a copy of each organization's minutes of the board of directors for the meeting where the agreement or MOU is approved; and

(N) Any other information or documents prescribed by the director of the Council or the Council.

(4) If the director of the Council determines that the merged organization meets all requirements of this section, the merged organization will be presented to the Council for determination as to whether the merged organization meets the requirements for certification at the Council's next regularly scheduled meeting.

(5) Once the Council grants certification, the merged organization may merge or consolidate the separate rewards accounts of the merged organizations. The merged organization also will be eligible to apply to the relevant CSCDs to receive court fees under the provisions of Articles [42.12,] 37.073[;] and 42.152 and Chapter 42A, Texas Code of Criminal Procedure.

(6) The merged organization's "Excess Funds Accounts [Account]," as described [defined] in §414.010(d) of the Texas Government Code, may only be comprised of those funds that were previously in each individual organization's "Excess Funds Accounts [Account]." [Three years from the merged organization's certification date, the merged organization may establish an "Excess Funds Account" in accordance with §414.010(d) of the Texas Government Code.]

(7) The certification is valid for a period of two years.

§3.9021. *Addition of Geographic Territories or Jurisdictions to Certified Organizations.*

(a) If a geographic territory or jurisdiction wants to join an existing certified crime stoppers organization, the organization must apply for continuing certification, and the following procedures must be followed:

(1) The geographic territory or jurisdiction seeking to join the organization [county or city] must share contiguous borders with the certified crime stoppers organization.[:]

(2) The certified crime stoppers organization and the geographical entity that is requesting to join the crime stoppers organization must choose a new name for the organization unless both parties agree to operate under the name of the existing organization.[:]

(3) The certified crime stoppers organization must file the following documents with the director of the Texas Crime Stoppers Council (Council) requesting certification under a new name (if applicable) and with an expanded geographic territory or jurisdiction:

(A) United States Internal Revenue Service (IRS) letter for a 501(c)(3) corporation authorizing the organization to operate under a new name, if applicable;

(B) Texas Secretary of State letter for a 501(c)(3) corporation authorizing the organization to operate under a new name (if applicable);

(C) Application for Continuing Certification under the new name (if applicable) and with an expanded geographic territory or jurisdiction;

(D) Statements for all financial accounts [Copies of a financial review of all bank accounts] for the certified crime stoppers organization as required in §3.9000(f)(1) of this chapter;

(E) Copy of board of directors membership list for the organization, to include contact information for board members, the law enforcement coordinator, and executive director (if applicable);

(F) Copies of letters from the community supervision and corrections departments (CSCD) detailing the amount of court fees paid to the certified organization during the previous two years, under the provisions of Articles [42.12,] 37.073 and 42.152 and Chapter 42A, Texas Code of Criminal Procedure;

(G) Training certificates showing that at least one board member (if applicable), the law enforcement coordinator, and an executive director (if applicable) received training as authorized by the Council within the 12-month period preceding the new Application for Continuing Certification;

(H) Copies of Crime Stoppers Program Annual [Probation Fee and Repayment] Reports for the certified crime stoppers organization for the previous two calendar years as specified by §414.010(a), Texas Government Code;

(I) Copy of the minutes of the board of directors meeting of the certified crime stoppers organization in which the board voted to add the new geographical entity to the territory or jurisdiction served by the crime stoppers organization; [and]

(J) Written documentation from a law enforcement agency serving the [citizens of the] geographic territory or jurisdiction showing an interest in joining an existing crime stoppers organization; and

(K) Any other information or documents prescribed by the director of the Council or the Council.

(4) If the director of the Council determines that the newly expanded organization meets all requirements listed in paragraphs (1) - (3) of this subsection, the expanded organization will be presented to the Council for determination as to whether the expanded organization meets the requirements for certification at the Council's next regularly scheduled meeting. [The Council may grant expanded certification at its discretion.]

(5) Once the Council grants certification, the organization will be eligible to apply to the CSCDs in the newly acquired geographic territory or jurisdiction to receive court fees under the provisions of Articles [42.12,] 37.073 and 42.152 and Chapter 42A, Texas Code of Criminal Procedure.

(6) The certification is valid for a period of two years.

(b) If a certified or non-certified organization serves the geographic area to which a certified organization is attempting to expand, the expanding organization must send written notice to the Council and to the organization serving the geographic area to which it intends to expand of its intent to serve that area.

§3.9025. Excess Funds.

(a) A certified crime stoppers organization may establish Excess Funds Accounts in accordance with §414.010(d) of the Texas Government Code. At the conclusion of each fiscal year, if the total amount of funds in the organization's rewards accounts exceeds three times the average annual amount of funds used by the organization to pay rewards during each of the three preceding fiscal years, the organization may deposit such excess amount into its Excess Funds Accounts.

(b) The Excess Funds Accounts may only be used for expenditures for law enforcement or public safety purposes directly related to crime stoppers or juvenile justice, which means:

(1) Costs incurred in providing training to crime stoppers volunteers or law enforcement coordinators and travel costs necessary to complete that training;

(2) Costs associated with supporting volunteers in performing crime stoppers operations;

(3) Juvenile delinquency prevention or intervention programs;

(4) Promotional or marketing costs encouraging utilization of crime stoppers tip lines or recruiting volunteers for crime stoppers organizations; and

(5) Transfers to the crime stoppers assistance account in the general revenue fund or to other certified crime stoppers organizations, provided that the transferring certified crime stoppers organization ensures the receiving certified crime stoppers organization uses such funds for law enforcement or public safety purposes as described in this subsection.

(c) Pursuant to §414.010(d) of the Texas Government Code, a certified crime stoppers organization that deposits funds in an Excess Funds Account may use any interest earned on the funds in such account to pay costs incurred in administering the organization.

(d) Among other uses, a certified crime stoppers organization is not considered to be using its excess funds for a law enforcement or public safety purpose related to crime stoppers or juvenile justice if:

(1) It uses such excess funds to pay the salary or compensation of any public employee;

(2) It uses such excess funds for law enforcement equipment not directly related to crime stoppers or juvenile delinquency prevention or intervention purposes;

(3) It pays or reimburses for travel or per diem costs that exceed those allowed for state officials or employees with its excess funds;

(4) It unnecessarily retains such excess funds for an extended period of time; or

(5) It uses such excess funds for a purpose or in a manner prohibited by federal or state law.

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

Filed with the Office of the Secretary of State on December 17, 2019.

TRD-201904871

Margie Fernandez-Prew

Director, Texas Crime Stoppers Council

Office of the Governor

Earliest possible date of adoption: February 2, 2020

For further information, please call: (512) 463-1919



1 TAC §3.9010, §3.9013

The Texas Crime Stoppers Council (Council) proposes the repeal of 1 TAC §3.9010 and §3.9013, concerning reports required to be submitted by crime stoppers organizations (organizations).

EXPLANATION OF PROPOSED REPEALS

The Council's current rules at §3.9010 and §3.9013 require organizations to submit certain annual and quarterly reports. The Council proposes to repeal these rules because it is proposing in a separate notice to consolidate the reporting requirements for organizations, and will request the relevant information from the reports currently required under §3.9010 and §3.9013, in a single amended rule at §3.9011.

FISCAL NOTE

Margie Fernandez-Prew, Director of the Texas Crime Stoppers Council, has determined that for each year of the first five years in which the proposed repeals are in effect, there are no expected fiscal implications for the state or local governments as a result of the proposed repeals. Ms. Fernandez-Prew has further determined that the proposed repeals have no anticipated effect on local employment or local economies.

PUBLIC BENEFIT AND COSTS

Ms. Fernandez-Prew has also determined that for each year of the first five years in which the proposed repeals are in effect, the public benefit anticipated as a result of the proposed repeals will be to streamline and increase the efficiency in organizations' reporting. There are no anticipated economic costs to persons that are required to comply with the Council's rules as a result of the proposed repeals. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities; therefore, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Finally, Ms. Fernandez-Prew has determined that for each year of the first five years in which the proposed repeals are in effect, the proposed repeals will have the following effect on government growth. The proposed repeals will not create or eliminate

any government programs or employee positions. Additionally, the proposed repeals will not require an increase or decrease in future legislative appropriations to the Council or change any fees paid to the Council. The proposed repeals will not create a new regulation nor will they expand or limit any existing regulation, but they will repeal two existing regulations. Furthermore, the proposed repeals will not increase or decrease the number of individuals subject to the applicability of the Council's rules. The proposed repeals are not anticipated to affect this state's economy.

SUBMITTAL OF COMMENTS

Written comments regarding the proposed repeals may be submitted to Margie Fernandez-Prew, Office of the Governor, Texas Crime Stoppers Council, P.O. Box 12428, Austin, Texas 78711 or to txcrimestoppers@gov.texas.gov with the subject line "Repeal of Council Rules." The deadline for receipt of comments is 5:00 p.m. CST on February 3, 2020. All requests for a public hearing on the proposed repeals, submitted under the Administrative Procedure Act, must be received by the Council no more than fifteen (15) days after the notice of proposed repeals in the sections have been published in the *Texas Register*.

STATUTORY AUTHORITY

The repeals are proposed under Government Code, §414.006, which provides that the Council may adopt rules to carry out its functions under that chapter.

Cross Reference to Statute: Chapter 414, Government Code.

§3.9010. Annual Probation Fee and Repayment Report.

§3.9013. Quarterly Statistical Reports.

Filed with the Office of the Secretary of State on December 17, 2019.

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Margie Fernandez-Prew

Director, Texas Crime Stoppers Council

Office of the Governor

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§3.9000 would require that for initial or continuing certification an organization must submit a list of specified items and "[a]ny additional information requested or specified by the Council or the director of the Council". If the intent of this "catch-all" provision is to avoid setting in stone the certification requirements and give the Council or Director the ability to add requirements when they realize they forgot something, it should include a requirement that the Council adopt a standard format for all applications and approve any changes. Then, the "catch-all" would allow the Council to change the application process when a new standard or best practice was discovered, but would prevent different standards being applied to organizations on an application-by-application basis. That standardized application would level the playing field for everyone. Without it, the "catch-all" could be used to put higher minimum standards on one group and lower on another.

The "catch-all" statement referenced above, appears throughout the proposed rules but the author used different phrases, including; *"any other information prescribed by the director of the Council or the Council"*, *"any additional information requested or specified by the Council or the director of the Council"*, and *"any other information or documents prescribed by the director of the Council or the Council"*. Is the varying of language intentional? If so, what is the purpose? Whichever statement(s) is used, the "catch-all" could be abused