



Criminal History Policy

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Section A: Intent

1. The Florida Certification Board's (FCB) mission is to protect the safety of clients of certified professionals. To that end, the FCB requires all certification applicants to pass a criminal history check as a condition of certification. The FCB further requires all certified professionals to report all post certification arrests for review and action.
2. As part of the application process, the FCB will run a criminal history report to verify application information and determine eligibility for certification.
3. As part of its regulatory role, the FCB will run an annual criminal history report on all certified professionals to ensure continued compliance with the FCB's criminal history policy.

Section B: Definitions:

1. Applicant: The individual seeking certification.
2. Arrest Report: The detailed narrative written by the arresting law enforcement officer explaining the circumstances of the arrest.
3. Certified Professional: An individual holding a professional certification issued by the Florida Certification Board (FCB).
4. Clear and Convincing Evidence: Evidence presented is credible and verifiable, and that memories of witnesses are clear and without confusion. The evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince the FCB Board of Directors without hesitancy that the applicant will not pose a

threat to the safety and/or well-being of others, especially potential clients. Clear and convincing evidence is a heavier burden than the “preponderance of the evidence” standard but less than “beyond a reasonable doubt.”

5. Criminal History Exemption Request: The process by which eligible applicants or individuals may request an exemption from disqualification for certification based on their criminal history.
6. Criminal History Exemption Request Packet: The compilation of the Criminal History Exemption Request Form, Criminal History Exemption Checklist, and supporting documentation.
7. Disposition: The sentencing or other final settlement of a criminal case with shall include, regardless of adjudication, a plea of nolo contendere, a plea of guilty, or a conviction by a judge and jury.
8. Disqualifying Offense: Any felony offense against a person, a child, or designation as a sexual predator (s. 775.21, F.S.), sexual offender (s. 943.0435, F.S.) or a career/habitual offender (s. 775.261, F.S.).
9. FCB: The Florida Certification Board.
10. Verifiable: Documentation contains sufficient information to contact the issuing person/entity should any reviewer wish to substantiate the document or obtain additional information.

Section C: Applicant Screening Standards

1. All applicants for certification must indicate any felony or first degree misdemeanor offenses.
 - a. If the applicant indicates he or she does not have a criminal history, the application process will continue.
 - b. If the applicant indicates that he or she does have a criminal history, the applicant must pay a non-refundable \$20 fee to the FCB for a Criminal History Report.
2. The FCB will review all felonies and first-degree misdemeanors identified on an applicant’s criminal history report; lesser charges are not considered to be disqualifying offenses unless the court has designated the applicant as a career/habitual offender pursuant to s. 775.261, F.S.
 - a. An applicant with a clean criminal history of three (3) years or more will be approved to continue the certification process, unless there is a disqualifying offense on the applicant’s record regardless of the length of time from the offense to the application for certification.
 - b. An applicant with a criminal history that includes felony or first-degree misdemeanor offenses with less than three (3) years between release from court ordered supervision and application for certification is not eligible to request an

exemption and may not continue the certification application process until eligibility timeframes are met.

- c. An applicant with an alleged disqualifying offense that has not been disposed is not eligible for certification until the disposition has occurred.
3. When the dispositional information of a potentially disqualifying offense is unclear or not present in the criminal history report run by the FCB, a certified letter will be sent requesting the applicant to obtain the arrest report and dispositional information, and submit it to the FCB for consideration. The application will be placed in pending status until the requested information has been provided or 6 months has passed, whichever comes first. If six months pass with no additional information from the applicant, the application will be denied and closed.
4. All criminal history exemptions are reviewed for action by the Board of Directors at regularly scheduled quarterly board meetings.
5. All applicants who are denied certification due to a disqualifying offense are not eligible for a refund of certification application fees.

Section D: Criminal History Review and Disqualifying Offenses

1. The FCB reviews Criminal History Reports to identify offenses found in s. 435.03; s. 435.04; and 408.809, Florida Statutes to determine eligibility for certification and/or criminal history exemption. These charges are not necessarily disqualifying offenses and will be reviewed by the Director of Certification for action.
2. Disqualifying offenses are felony or first degree misdemeanor charges related to:
 - a. Crimes against persons,
 - b. Crimes against children, or
 - c. Designation as a sexual predator (s. 775.21, F.S.), sexual offender (s. 943.0435, F.S.) or a career/habitual offender (s. 775.261, F.S.).

Section E: Exemption Request Eligibility and Required Fees

1. The FCB will notify applicants in writing of disqualifying offenses and eligibility to request a Criminal History Exemption. Applicants will not incur an additional fee for the exemption process.
2. Individuals who have not yet applied for certification with the FCB may request the FCB to run a Criminal History Report to determine eligibility for certification and/or exemption. There is a non-refundable fee of \$50 to non-applicants for this review.

Section F: Criminal History Exemption Request Process and Requirements

1. Applicants approved to seek a Criminal History Exemption have the burden of providing clear and convincing evidence that he or she should be exempted from disqualification.
2. Applicants must complete and submit a Criminal History Exemption Request Packet, which includes applicant contact/identifying information, a narrative of the disqualifying

crime(s), date(s) of offenses, and documentation supporting rehabilitation. The applicant must provide clear and convincing evidence that he or she does not present a danger to the safety or well-being of others, especially potential clients. Rehabilitation documentation includes, but is not limited to:

- a. Official documentation that the applicant has been released from any and all confinement, supervision, or other sanction for the disqualifying offense.
 - b. Evidence of rehabilitation, including successful participation in rehabilitation program(s).
 - c. Letters of support from employers and/or other professionals.
 - d. Personal references.
 - e. Evidence of community involvement, awards, or other recognition.
 - f. Evidence of further education and/or training.
3. The FCB Board of Directors grants or denies exemption requests at quarterly Board of Directors meetings. The Criminal History Exemption Request must be received at the FCB office a minimum of 30-days before the next regularly scheduled Board of Directors meeting. Applicants missing the 30-day deadline will be heard at the next regularly scheduled Board Meeting.
 4. In deciding whether to grant or deny the exemption request, the Board will consider factors such as the facts and circumstances surrounding the disqualifying offense(s), the nature of the harm to the victim, whether restitution has been made, the length of time since the last offense, the history of the applicant since the disqualifying offense(s), including work history, personal and professional references, evidence of rehabilitation, and the honesty and candor of the applicant.
 5. Any exemption granted by the Board is valid only for offenses committed prior to the date of the request for exemption.
 6. The Board may invalidate a granted exemption when there is new evidence not made available at the time of the exemption review which would result in a denial of the request, or there is a new disposition of a new disqualifying offense after the date the exemption was granted.
 7. Within five (5) business days of the Board's determination to grant or deny the exemption request, the FCB shall notify the applicant in writing of the Board's decision. Denials are not eligible for appeal.

Section G: Arrest and/or Incarceration after Certification

1. In the event a certified individual is arrested for a felony or first-degree misdemeanor, the individual must notify the FCB of the arrest within five (5) business days of the arrest, unless the individual is confined in a city, county, state, or federal facility. The FCB will review the charges and will determine one of the following actions:
 - a. Immediate suspension pending the outcome of the case.

- b. No action pending the outcome of the case.
2. If the charges are dropped, the individual must provide a certified copy of the outcome of the case to the FCB. The FCB will close the case and will not pursue additional sanctions.
3. If there is a disposition of guilty or nolo contender, the FCB will place the individual on inactive status pending completion of all court ordered sanctions, at which time the individual may petition the Board for reinstatement by submitting a Criminal History Exemption Request.
4. If the certified individual fails to notify the FCB of a disqualifying felony or first-degree misdemeanor offense, regardless of the outcome of the case, the FCB will immediately suspend the certified individual and open an ethics case for failure to follow the Code of Ethics related to criminal activity.
5. The FCB runs an annual criminal history report on all certified individuals to ensure compliance with the FCB's policy regarding criminal activity.
 - a. In the event that a disqualifying felony or first-degree misdemeanor offense has occurred since the time of certification award and the certified individual did not notify the FCB of such offense according to policy, the FCB will immediately suspend the certified individual and open an ethics case for failure to follow the Code of Ethics related to criminal activity.
 - b. In the event that the certified individual works for an employer that statutorily requires a Level 2 background screen as a condition of employment, the FCB will notify the employer of the result of the annual criminal history check.