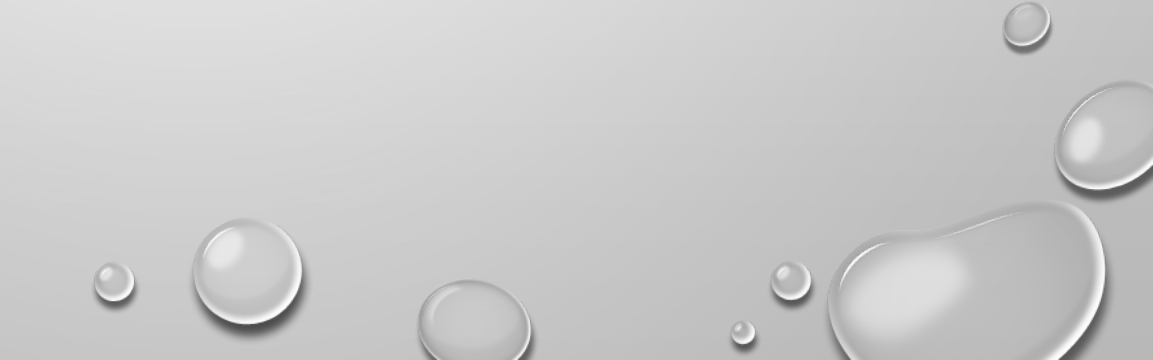




**North and East Texas
County Judges And Commissioners
Association Annual Conference
and Business Meeting**

**Brazos County Expo
Cavalry Court And The George
College Station
May 15, 2019**





DUTIES OF A DISTRICT CLERK

AND HOW IT RELATES TO YOU!

PRESENTED BY

PATTI L. HENRY

CHAMBERS COUNTY DISTRICT CLERK



DUTIES OF A DISTRICT CLERK

- Provide support for the district courts and county courts at law (where applicable),
- Is the custodian of court records, securing and indexing records in all courts served by the clerk,
- Maintains the county jury wheel,
- Collects civil and criminal court costs, fines and filing fees,
- Handles funds held in litigation and money awarded to minors in the registry of the court,
- Can be designated as an Agent for the U.S. Department of State Passport Agency.

RULES THE DISTRICT CLERK IS GOVERNED BY

- COURT RECORDS ARE NOT SUBJECT TO THE PUBLIC INFORMATION ACT!
- Court records are governed by RULE 12 of the Rules Of Judicial Administration handed down by the Supreme Court of Texas.

THE OFFICE OF COURT ADMINISTRATION (OCA) works with the SUPREME COURT OF TEXAS to administer rules that the District Clerk follows.

FOR INSTANCE, THE EFILING MANDATE!

CLERK'S ALSO HAVE TO ADHERE TO 234 DIFFERENT CODES!!!

COUNTY JURY WHEEL

- The District Clerk is charged with maintaining the jury wheel for the county, **Government Code 62** . *In counties with a population of 1.7 million or more, in which 75% of the population reside in a single municipality, a bailiff appointed as provided by Section 62.019, can be the designated officer, Government Code 62.011 (b).*
- *The jury wheel is comprised of names of all persons on the current voter registration lists within the county AND all names furnished by the Department of Public Safety, showing the citizens of the county who either hold a valid drivers license or valid personal identification card.*

DISTRICT CLERK WORKS WITH THE VOTER REGISTRAR

- THE DISTRICT CLERK WORKS WITH THE VOTER REGISTRAR TO KEEP THE JURY WHEEL UP TO DATE.
- The District Clerk is notified by other departments pulling juries of people that should be exempted or disqualified from the jury wheel.
- What we report to the Voter Registrar:
 1. A person that is not a resident of the county,
 2. A person that is claiming an over 70 exemption,
 3. A person who has indicated they are not a citizen of the United States,
 4. A person who is proven to be deceased.



SO YOU MIGHT BE THINKING,

WHAT DO DISTRICT CLERK'S DO FOR ME?



CLERK'S ARE ALWAYS WORKING FOR YOU.

- Clerk's are frugal spenders of the counties funds!
- Clerk's do whatever they can to collect money owed to the county.
- Clerk's constantly keep their eye on bills filed during the legislative session to ensure someone is not trying to take fees away from our counties.
- Clerk's work to bring the current pricing of fees assessed into the 21st century through the legislative process.

TOOLS TO COLLECT COURT COSTS, FINES, AND FEES

- SOME COUNTIES ARE LARGE ENOUGH TO HAVE A SEPARATE COLLECTION DEPARTMENT,
- SOME COUNTIES HAVE A THIRD PARTY VENDOR COLLECT FOR THEM,
- FOR THE REST OF THE COUNTIES, THE CLERK'S ATTEMPT TO COLLECT. BELOW ARE A FEW TOOLS THEY CAN USE TO INCREASE COLLECTION EFFORTS FOR YOUR COUNTY;

1. If your case management system does not have a collection program purchase a third party software package – they will more than pay for themselves.

~~2. Enact Scofflaw – Sec. 502.010, Texas Transportation Code created Scofflaw, an interlocal agreement with the DMV to place a hold on vehicle registration if the person owes your county money.~~

85TH Legislative session amended this code to terminate collection attempts after the second anniversary of the date the information was provided.

Issue Capias Pro Fine – The judge of the court in which the fees are owed can issue a warrant for that persons arrest.

85th legislative session Senate Bill 1913 amends this code to require a hearing be held to determine ability of the defendant to pay costs.

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**COURT COSTS FOUND
UNCONSTITUTIONAL**

JOHNSON V. STATE,

2018 WL 1476275 (TEX. APP.— HOUSTON [14TH DIST.]) 2018

- Court found CCP art. 102.004(a) (**jury fee**) facially unconstitutional in violation of the separation-of- powers provision.
- “Oca has stated that, while the proceeds of the fee presumably are used for courts related to a jury, the statute does not explicitly limit the spending of the collected fees for the purpose of costs related to a jury.”
- This fee was sent to the State Comptroller with the county retaining 10%.

JOHNSON V. STATE,
2018 14-18-00273-CR - 264TH DIST., BELL COUNTY

- Court found LGC section 133.103 (**time payment fee**) facially unconstitutional.
- This fund is part of Senate Bill 346, a proposed criminal consolidation bill, categorizing the fund as a reimbursable expense.

ALLEN V. STATE,

2017 WL 5712602 (TEX. APP.—HOUSTON [1ST DIST.]) 2017

- Court found CCP art. 102.011(a)(3) and (b)
- **(Summoning fee & mileage fee for summoning witnesses) facially unconstitutional.**

ROBISON V. STATE,
2017 WL 4655107 (TEX. APP.—TEXARKANA) 2017
CASAS V. STATE,
524 S.W.3D 921 (TEX. APP.—FORT WORTH) 2017

- Court found CCP art. 102.0185(a) (**EMS trauma fund**) cost facially unconstitutional.
- This fund is part of Senate Bill 346, a proposed criminal consolidation bill, categorizing the fund as a reimbursable expense.


HERNANDEZ V. STATE,

2017 WL 3429414 (TEX. APP.—HOUSTON [1ST DIST.]) 2017

- Court found CCP art. 102.008(a) (**prosecutor fee**) facially unconstitutional.
- This fund is part of Senate Bill 346, a proposed criminal consolidation bill, categorizing the fund as a fine.



SALINAS V. STATE,
523 S.W.3D 103 (TEX. CRIM APP.) 2017

- Court found **consolidated court cost** to be facially unconstitutional (allocation to 2 funds).
 - These funds were directed to the state comptroller.
 - This was fixed during the 85th legislative session by reallocating the funds.
- 

COUNTY & DISTRICT CLERKS' ASSOCIATION OF TEXAS

LEGISLATIVE PRIORITIES

- *House Bill 685 protects court clerks and counties from liability relating to the public disclosure of certain court documents that are accessed by a third party from a statewide court database.*
- *House Bill 686 makes the temporary increase permanent for historic records preservation fees charged by County and District Clerks.*

SECTION 3 GOVERNMENT CODE 51.305 ARCHIVE FEE

The district court records archive fee is for preservation and restoration services in connection with maintaining the district court records. This fee of not more than \$10.00, once adopted, may be collected in any court in the county for which the district clerk accepts filings.

The fee must be set and itemized in the counties budget as part of the budget process and must be approved in a public meeting. Effective 9/1/2015

THE FEE WILL REVERT BACK TO \$5.00 ON 9/1/2019

THE CLERK'S ASSOCIATION HAS FILED

HOUSE BILL 686 AND SENATE BILL 658 TO REPEAL THIS.

REGISTRY OF THE COURT

- According to the Attorney General, any money or property deposited with the court to “satisfy the result of a legal proceeding or to await the result of a legal proceeding” falls under the definition of funds and property to be held in the registry of court.
- The funds held in the registry of court do not belong to the county; rather, they are essentially held in trust by the clerk to satisfy the result of a legal pleading or to await the outcome of a legal proceeding.
- The clerk will follow instructions contained in the order to deposit funds into the registry of the court, some orders specify the bank and type of account they will be deposited into.
- The clerk should keep detailed records of these funds.

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E-FILING UPDATE AND RESEARCH TEXAS



YOU MIGHT BE ASKING

WHAT DO I DO FOR MY DISTRICT CLERK?



BONDS AND INSURANCE

- A DISTRICT CLERK IS REQUIRED TO HAVE THE FOLLOWING:
- a bond on the district clerk to ensure proper performance of the duties of the clerk's office, whether by a surety company or county self insured,
- an errors and omissions insurance policy for the clerk and their deputy clerks,
- an insurance policy to cover losses from theft, robbery, counterfeit currency or destruction, and
- a surety bond or blanket surety bond to cover all deputies of the office.

Commissioners court shall pay the premiums on all of the above from the general fund. (GC Sec. 51.302(f))

CONTINUING EDUCATION

A district clerk must complete 20 hours of instruction regarding the performance of the clerk's duties of office during each calendar year after the clerk's election or appointment to office. (GC Sec. 51.605)

We look to you to provide us enough in our travel/training budget to attend conferences.

MY GOALS AS A DISTRICT CLERK

- TO KEEP MY JUDGES AND ATTORNEYS I WORK WITH HAPPY
- SERVE THE RESIDENTS OF MY COUNTY WHILE MAINTAINING THEIR PRIVACY AND SAFETY
- COLLECT AS MUCH REVENUE FOR MY COUNTY AS POSSIBLE SO COMMISSIONERS COURT WILL PROVIDE THE TOOLS I NEED TO PERFORM MY JOB AS EFFICIENTLY AS POSSIBLE!!!



**COMMISSIONERS COURT AND CLERK'S
WORKING TOGETHER**

WE CAN DO IT!



QUESTIONS?????????

FOR ADDITIONAL INFORMATION CONTACT
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