



OFFICE OF COURT ADMINISTRATION

DAVID SLAYTON
Administrative Director

MEMORANDUM

TO: Chief Justice Nathan Hecht
Presiding Judge Sharon Keller
Members, Texas Judicial Council

FROM: David Slayton, Executive Director, Texas Judicial Council

RE: Proposed Amendments – Title I, Texas Administrative Code Chapter 171
Proposed Repeal – Title I, Texas Administrative Code Chapter 175

DATE: June 24, 2019

I. Title 1, Chapter 171

Attached for your consideration are proposed amendments to Chapter 175, Title 1, Texas Administrative Code. The purpose of the amendments is to implement requirements and changes enacted by the 85th and 86th Legislatures and to repeal obsolete provisions. The following is a brief description of the proposed amendments:

- Amend Secs. 171.4(b)(1)(D) and 171.5(b)(1)(D), and add Sec. 171.6(b)(D) to require the clerks of district, statutory county, and county courts to report the number of written reports submitted to the courts under Code of Criminal Procedure Art. 16.22(a)(1)(B).
Authority: Art. 16.22(e), Code of Criminal Procedure
- Repeal Sec. 171.9(a)(2) to remove reporting that was previously required by Supreme Court order.
Authority: Supreme Court Miscellaneous Order No. 16-9123 which repealed Supreme Court Miscellaneous Order No. 07-9188.
- Amend Sec. 171.9(d) to correct the reference to the Family Code provision that requires reporting in judicial bypass cases and to incorporate the statutory reporting requirements in the rule.
Authority: Sec. 33.003(l-1), Texas Family Code

- Amend Sec. 171.9(e) to clarify that the sheriff, constable, or other law enforcement entity that provides security for a court, not the local administrative judge, is required to provide court security incident reports to the Council.
Authority: Art. 102.017, Code of Criminal Procedure
- Add new Sec.171.9(g) to require the clerk of a district, statutory county, or county court to report to the Council information regarding writs of attachment issued by a court. Authority: Art. 2.212, Code of Criminal Procedure
- Add Sec.171.9(h) to require the presiding judges of the administrative judicial regions to report information requested by the Council regarding the amount and character of the business they transact.
Authority: Sec. 71.038, Government Code
- Repeal Secs. 171.9(g) and 171.10(b).
Authority: Sec. 72.031 (c) and (c-1), Government Code, and Sec. 103.027(b), Local Government Code – provisions expiring September 1, 2019 that currently authorize local governments and appellate courts to charge a filing fee to recover the cost of implementing an e-filing system and to certify to OCA that the fee is necessary.

II. Title II, Chapter 175

Senate Bill 891 enacted by the 86th Legislature repealed the statute that established the Collections Improvement Program (CIP), Article 103.0033 of the Code of Criminal Procedure. Therefore, effective September 1, 2019, Chapter 175 of the Council's rules promulgated pursuant to Art. 103.0033 regarding the CIP's program components are no longer required and should be repealed.

Attachment: Proposed Amendments to Chapter 171, Title I, Texas Administrative Code

TEXAS ADMINISTRATIVE CODE

TITLE 1. ADMINISTRATION

PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 171. REPORTING REQUIREMENTS

§171.4 District Court Reports

(a) Method. The district clerk of each county shall submit a district court activity report of the criminal, civil, family law and juvenile cases in the county's district courts. A separate report may be submitted for each district court or a single report may be submitted showing the combined activity of all the district courts in the county. Unless OCA grants a waiver for good cause, the district clerk shall submit the reports by electronic means approved by OCA. The maximum duration of a waiver is one year, but OCA may approve successive waivers.

(b) Reporting Categories.

(1) Criminal Cases.

(A) Criminal case type categories. The monthly report contains the following categories of felony case types: capital murder, murder, other homicides, aggravated assault or attempted murder, sexual assault of an adult, indecency with or sexual assault of a child, family violence assault, aggravated robbery or robbery, burglary, theft, automobile theft, drug sale or manufacture, drug possession, felony D.W.I., and other felonies; and a misdemeanor case type category for all misdemeanors.

(B) Criminal case activity categories. The monthly report contains sections for reporting cases on docket, dispositions, supplemental information and additional court activity.

(C) Report of a request for a hate crime finding. This section of the monthly report requests information pursuant to Article 2.211 of the Code of Criminal Procedure.

(D) Other Case Activity Reporting.

(i) Pursuant to Section 71.0353 of the Government Code, the clerk shall also report the number of cases filed for the following offenses:

~~[(i)]~~ (I) trafficking of persons under Sec. 20A.02, Penal Code,

~~[(ii)]~~ (II) prostitution under Sec. 43.02, Penal Code; and

~~[(iii)]~~ (III) compelling prostitution under Sec. 43.05, Penal Code.

(ii) The clerk shall also report the number of reports provided to the court under Art. 16.22(a)(1)(B) of the Code of Criminal Procedure.

(2) Civil Cases.

(A) Civil case type categories. The monthly report contains the following categories of civil cases: injury or damage - motor vehicle, injury or damage - medical malpractice, injury or damage - other professional malpractice, injury or damage - asbestos/silica product liability, injury or damage - other product liability, other injury or damage, real property - eminent domain, other real property, contract - consumer/commercial/debt, other contract, civil cases relating to criminal matters, other civil cases, and tax cases.

(B) Civil case activity categories. The monthly report contains sections for reporting cases on docket, dispositions and additional court activity.

(3) Family Law Cases.

(A) Family law case type categories. The monthly report contains the following categories of family law cases: divorce - children, divorce - no children, parent/child - no divorce, child protective services, termination of parental rights, adoption, protective orders - no divorce, Title IV-D - paternity, Title IV-D - support order, and Title IV-D - UIFSA, all other family law cases, and post-judgment actions for modification - custody, modification - other, enforcement, and Title IV-D.

(B) Family law case activity categories. The monthly report contains sections for cases on docket, dispositions and additional court activity section.

(4) Juvenile Cases.

(A) Juvenile case type categories. The monthly report contains a category for conduct indicating a need for supervision (C.I.N.S.) cases and the following categories of delinquent conduct cases: capital murder, murder, other homicides, aggravated assault or attempted murder, assault, indecency with a child or sexual assault, aggravated robbery or robbery, burglary, theft, automobile theft, felony drug offenses, misdemeanor drug offenses, D.W.I., contempt of court, and all other offenses.

(B) Juvenile case activity categories. The monthly report contains sections for reporting cases on docket, adjudications, dispositions and additional court activity.

§171.5 Statutory County Court Reports

(a) Method. Each district clerk or county clerk who maintains the records for the statutory county courts (including statutory probate courts) of a county shall submit a court activity report of criminal, civil, family law, juvenile, probate and guardianship, and mental health cases for these courts. A separate report may be submitted for each statutory county court or a single report may be submitted for all statutory county courts in the county. Unless OCA grants a waiver for good cause, the clerk shall submit the reports by electronic means approved by the OCA. The maximum duration of a waiver is one year, but OCA may approve successive waivers.

(b) Reporting Categories.

(1) Criminal Cases.

(A) Criminal case type categories. The monthly report for criminal cases is divided into sections for misdemeanors and felonies.

(i) Misdemeanor case types. The report contains the following categories for reporting misdemeanor cases: D.W.I. - first offense, D.W.I. - second offense, theft, theft by check, drug possession - marijuana, drug offenses - other, family violence assault, other assault, traffic, D.W.L.S./D.W.L.I., and other misdemeanor cases.

(ii) Felony case types. The report contains the following categories for reporting felony cases: capital murder, murder, other felony homicides, aggravated assault or attempted murder, sexual assault of an adult, indecency with or sexual assault of a child, family violence assault, aggravated robbery or robbery, burglary, theft, automobile theft, drug sale or manufacture, drug possession, felony D.W.I., and other felonies.

(B) Criminal case activity categories. The monthly report contains sections for reporting cases on docket, dispositions, supplemental information and additional court activity.

(C) Report of a request for a hate crime finding. This section of the monthly report requests information pursuant to Article 2.211 of the Code of Criminal Procedure.

(D) Other Case Activity Reporting.

(i) Pursuant to Section 71.0353 of the Government Code, the clerk shall also report the number of cases filed for the following offenses:

~~[(i)]~~ (I) trafficking of persons under Sec. 20A.02, Penal Code,

~~[(ii)]~~ (II) prostitution under Sec. 43.02, Penal Code; and

~~[(iii)]~~ (III) compelling prostitution under Sec. 43.05, Penal Code.

(ii) The clerk shall also report the number of reports provided to the court under Art. 16.22(a)(1)(B) of the Code of Criminal Procedure.

(2) Civil Cases.

(A) Civil case type categories. The monthly report contains the following categories of civil cases: injury or damage - motor vehicle, injury or damage - medical malpractice, injury or damage - other professional malpractice, injury or damage - asbestos/silica product liability, injury or damage - other product liability, other injury or damage, real property - eminent domain, other real property, contract - consumer/commercial/debt, other contract, civil cases relating to criminal matters, all other civil cases, and tax cases.

(B) Civil case activity categories. The monthly report contains sections for reporting cases on docket, dispositions and additional court activity.

(3) Family Law Cases.

(A) Family law case type categories. The monthly report contains the following categories of family law cases: divorce - children, divorce - no children, parent/child - no divorce, child protective services, termination of parental rights, adoption, protective orders - no divorce, Title IV-D - paternity, Title IV-D - support order, Title IV-D - UIFSA, all other family law cases, and post-judgment actions for modification - custody, modification - other, enforcement, and Title IV-D.

(B) Family law case activity categories. The monthly report contains sections for reporting cases on docket, dispositions and additional court activity.

(4) Juvenile Cases.

(A) Juvenile case type categories. The monthly report contains a category for C.I.N.S. cases and the following categories of delinquent conduct cases: capital murder, murder, other homicides, aggravated assault or attempted murder, assault, indecency with a child or sexual assault, aggravated robbery or robbery, burglary, theft, automobile theft, felony drug offenses, misdemeanor drug offenses, D.W.I., contempt of court, and all other offenses.

(B) Juvenile case activity categories. The monthly report contains sections for reporting juvenile case activity for cases on docket, adjudications, dispositions and additional court activity.

(5) Probate and Guardianship Cases.

(A) Probate and guardianship case type categories. The monthly report contains the following categories for reporting probate and guardianship case types: decedents' estates (independent

administration, dependent administration, and all other estate proceedings), guardianships (minor and adult), and other cases.

(B) Probate and guardianship activity categories. The monthly report contains activity report categories for cases on docket and additional information.

(6) Mental Health Cases.

(A) Mental health case type categories. The monthly report contains the following categories for reporting mental health cases: temporary mental health services, extended mental health services, modification - inpatient to outpatient, modification - outpatient to inpatient, and orders to authorize psychoactive medications.

(B) Mental health activity categories. The monthly report contains activity report categories for intake, hearings, and other information.

(C) Mental health commitments. Pursuant to Section 574.014 of the Health and Safety Code, the clerk shall report the number of applications for commitment orders for involuntary mental health services filed with the court and the disposition of those cases, including the number of commitment orders for inpatient and outpatient mental health services.

§171.6 Constitutional County Courts Reports

(a) Method. County clerks shall submit a court activity report of criminal, civil, juvenile, probate and guardianship, and mental health cases for each constitutional county court. Unless OCA grants a waiver for good cause, county clerks shall submit the reports by electronic means approved by the OCA. The maximum duration of a waiver is one year, but OCA may approve successive waivers.

(b) Reporting Categories.

(1) Criminal Cases.

(A) Criminal case type categories. The monthly report contains the following categories of misdemeanor case types: D.W.I. - first offense, D.W.I. - second offense, theft, theft by check, drug possession - marijuana, drug offenses - other, family violence assault, other assault, traffic, D.W.L.S./D.W.L.I., and other misdemeanor cases.

(B) Criminal case activity categories. The monthly report contains sections for reporting cases on docket, dispositions, supplemental information and additional court activity.

(C) Report of a request for a hate crime finding. This section of the monthly report requests information pursuant to Article 2.211 of the Code of Criminal Procedure.

(D) Other Case Activity Reporting. The clerk shall also report the number of reports provided to the court under Art. 16.22(a)(1)(B) of the Code of Criminal Procedure.

(2) Civil Cases.

(A) Civil case type categories. The monthly report contains the following categories of civil cases: injury or damage - motor vehicle, other injury or damage, real property, contract - consumer/commercial/debt, contract - landlord/tenant, other contract, civil cases relating to criminal matters, and all other civil cases.

(B) Civil case activity categories. The monthly report contains sections for reporting cases on docket, dispositions and additional court activity.

(3) Juvenile Cases.

(A) Juvenile case type categories. The monthly report contains a category for C.I.N.S. cases and the following categories of delinquent conduct cases: capital murder, murder, other homicides, aggravated assault or attempted murder, assault, indecency with a child or sexual assault, aggravated robbery or robbery, burglary, theft, automobile theft, felony drug offenses, misdemeanor drug offenses, D.W.I., contempt of court, and all other offenses.

(B) Juvenile case activity categories. The monthly report contains sections for reporting cases on docket, adjudications, dispositions and additional court activity.

(4) Probate and Guardianship Cases.

(A) Probate and guardianship case type categories. The monthly report contains the following categories for reporting probate and guardianship case types: decedents' estates - independent administration, decedents' estates - dependent administration, and all other decedents' estate proceedings, guardianships - minor, guardianships - adult, and other cases.

(B) Probate and guardianship activity categories. The monthly report contains activity report categories for cases on docket and additional information.

(5) Mental Health Cases.

(A) Mental health case type categories. The monthly report contains the following categories for reporting mental health cases: temporary mental health services, extended mental health services, modification - inpatient to outpatient, modification - outpatient to inpatient, and orders to authorize psychoactive medications.

(B) Mental health activity categories. The monthly report contains the activity report categories for intake, hearings, and other information.

(C) Mental health commitments. Pursuant to Section 574.014 of the Health and Safety Code, the clerk shall report the number of applications for commitment orders for involuntary mental health services filed with the court and the disposition of those cases, including the number of commitment orders for inpatient and outpatient mental health services.

§171.9 Other Reports Required from the Courts

(a) Judicial Appointments and Fees. The clerk of each court shall submit a monthly report to OCA in the format prescribed by OCA. The report must:

(1) pursuant to Section 36.004 of the Government Code, list every appointment made for an attorney ad litem, guardian ad litem, guardian, mediator, or competency evaluator and the compensation paid, if any. Appointments made by the court for positions exempted from reporting under Sec. 36.003, Tex. Gov't Code, are not required to be reported. [~~The requirements of §171.9(a)(1) are effective September 1, 2016.~~]

(2) [~~pursuant to Supreme Court Order 07-9188, list every appointment in a civil, probate or family case for any other position for which a fee may be paid and the compensation paid, if any.~~]

(3)] The report shall include the case number and style, and the name of the judge and date of order approving compensation. The report is due no later than 15 days following the end of the month reported. If no appointments were made or fees were approved by the courts in

the preceding month, the clerk shall file a report indicating that no appointments or payments were made in that month.

(b) Jury Charges and Sentences in Capital Cases. Pursuant to Section 72.087 of the Government Code, the judge or clerk of a court in which a capital case is heard must submit to OCA a written record of the case that includes the content of the trial court's charge to the jury and the sentence issued in the case. The information must be submitted no later than 30 days after the date of judgment of conviction or acquittal.

(c) Vexatious Litigants. Pursuant to Section 11.104 of the Civil Practice and Remedies Code, the clerk of each court shall submit to OCA within 30 days a copy of any order declaring a person a vexatious litigant and prohibiting the person from filing new litigation without the consent of the local administrative judge.

(d) Judicial Bypass. Pursuant to Section ~~[33.003(1)]~~ 33.003(1-1) of the Family Code, the district clerk or county clerk shall submit a report to OCA on a form prescribed by OCA the information required under Sec. 33.003(1-1) regarding a case [listing the case number and style of each case] in which a minor files an application for a court order authorizing the minor to consent to the performance of an abortion without notification and consent of a parent, managing conservator, or guardian.

(e) Court Security Incident. Pursuant to Article 102.017 of the Code of Criminal Procedure, the sheriff, constable or other law enforcement agency that provides security for a court [a local administrative judge] is required to submit a report to OCA regarding any incident involving court security that occurs in or around a building housing a court for which the sheriff, constable, agency or entity provides security [judge serves as local administrative judge]. The report is due no later than three business days after the date the incident occurred.

(f) Private Professional Guardians. Pursuant to Section 1104.306 of the Estates Code, the clerk of each county shall annually submit to the Judicial Branch Certification Commission the name and business address of each private professional guardian who has satisfied the registration requirements of Sec. 1104.303, Tex. Estates Code. The report is due no later than January 31 of each year.

~~[(g) E-filing Fee. Pursuant to Section 72.031 of the Government Code, an appellate court that charges a \$2 fee for each electronic filing must certify annually to OCA on a form prescribed by OCA that the amount of the fee is necessary to recover the actual system operating costs incurred by the appellate court. The report is due 30 days after the last day of the county's fiscal year.]~~

(g) Writ of Attachment. Pursuant to Art. 2.212 of the Code of Criminal Procedure, not later than the 30th day after the court issues a writ of attachment, the clerk of a district, statutory county or county court shall report to OCA on a form prescribed by OCA the following regarding the issued writ of attachment:

(i) the date the attachment was issued;

(ii) whether the attachment was issued in connection with a grand jury investigation, criminal trial, or other criminal proceeding;

(iii) the names of the persons requesting and the judge issuing the attachment; and

(iv) the statutory authority under which the attachment was issued.

(h) Regional Presiding Judges Report. Pursuant to Government Code Sec. 71.038, the presiding judges of the administrative judicial regions shall submit on a form approved by the Council information requested by the Council regarding the business transacted by the judges.

§171.10 Other Reports Required by Non-Court Personnel

~~[(a)]~~ Municipal Officers. Pursuant to Section 29.013(a) of the Government Code, the secretary of a municipality with a municipal court, including a municipal court of record, or the person responsible for maintaining the records of the municipality's governing body, shall submit the name of each person who is elected or appointed mayor, municipal court judge, or clerk of a municipal court and each person who vacates these offices. This information must be reported no later than 30 days after the person's election or appointment to the office or vacancy from office.

~~[(b) E filing Fee. Pursuant to Section 72.031 of the Government Code, each local government that charges a \$2 fee for each electronic filing must certify annually to OCA on a form prescribed by OCA that the amount of the fee is necessary to recover the actual system operating costs incurred by the local government. The report is due 30 days after the last day of the county's fiscal year.]~~