

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.

[REDACTED]

[REDACTED]

4) positively or adversely affect the state's economy. The proposed rule does not create a new regulation; it expands an existing regulation by implementing additional required reporting imposed by statute and repeals existing regulations that are no longer required by law or Supreme Court rule.

Comments

Comments on the proposal may be submitted to Jeffrey Tsunekawa at Jeffrey.Tsunekawa@txcourts.gov, at P.O. Box 12066, Austin, Texas 78711-2066, or at fax number (512) 463-1648.

Statutory Authority

The amendments are proposed under the following Government Code sections: §71.019, which authorizes the Council to adopt rules expedient for the administration of its functions, and §71.038, which requires the Council to collect judicial statistics from the presiding judges of the administrative judicial regions. They are also proposed under the following Code of Criminal Procedure Articles: Art. 2.212, which requires the clerk of a court to report to the Council information regarding writs of attachment issued by a court; Art. 16.22(e) which requires the Council to adopt rules to require the reporting of written reports provided to a court under Art. 16.22(a)(1)(B); and Art. 102.017, which requires a sheriff, constable, or other law enforcement entity that provides security for a court to provide the Council reports of court security incidents. The amendments are also proposed under §33.003(l-1) of the Family Code which requires district and county clerks to submit a report regarding the filing of 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. The provisions proposed to be repealed are done pursuant to Government Code §72.031(c), the provision that requires local governments and appellate courts to certify to OCA that the filing fee they collect under Government Code §72.031(c) is necessary to recover system operating costs to implement e-filing, which will expire on September 1, 2019, and Supreme Court Miscellaneous Order 16-9123 which repealed Supreme Court Miscellaneous Order 07-9188.

No other statutes, articles, or codes are affected by these sections.

§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

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PART 8. TEXAS JUDICIAL COUNCIL

CHAPTER 171. REPORTING REQUIREMENTS

1 TAC §§171.4 - 171.6, 171.9, 171.10

The Texas Judicial Council (the Council) proposes to amend §§171.4 - 171.6, 171.9, and 171.10 regarding requirements for case activity reports and other reports required to be submitted to the Office of Court Administration (OCA). The purpose of the proposed amendments to Chapter 171 is to implement changes in law or rule made by Senate Bill 42, Senate Bill 291, and House Bill 3994, 85th Legislature, Regular Session (2017); Senate Bill 891 and House Bill 601, 86th Legislature, Regular Session (2019); the expiration of Texas Government Code Sec. 72.031(c); and the repeal of Supreme Court Miscellaneous Order 07-9188.

Fiscal Note

Jennifer Henry, chief financial officer of the Office of Court Administration (OCA), has determined that for each year of the first five-year period the amendments are in effect, there will be no significant fiscal implication for the state or for local governments.

Public Benefit and Economic Impact

Jeffrey Tsunekawa, interim director of research and court services with OCA, has determined that for each year of the first five years the new sections are in effect, the public benefit anticipated as a result of the new sections will be clarity in what is required by law and rule for reporting case activity and other information to OCA. There will be no cost to small business or individuals.

Local Employment and Government Growth Impact Statement

Mr. Tsunekawa has also determined that a local employment impact statement for the proposed amendments is not required because there will be no impact to the local economy for each year of the first five years the amendments are in effect. Mr. Tsunekawa has also determined that the proposed amendment does not: 1) create or eliminate government programs or employee positions; 2) require an increase or decrease in future legislative appropriations or fees paid to the agency; 3) increase or decrease the number of individuals subject to the rule; and

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

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

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

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

(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.

(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(1-1) [33.003(4)] 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) 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:

- (1) the date the attachment was issued;
- (2) whether the attachment was issued in connection with a grand jury investigation, criminal trial, or other criminal proceeding;
- (3) the names of the persons requesting and the judge issuing the attachment; and
- (4) the statutory authority under which the attachment was issued.

[(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.]

(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.]

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 July 25, 2019.

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For further information, please call: (512) 936-7553



CHAPTER 175. COLLECTION IMPROVEMENT PROGRAM

1 TAC §§175.1 - 175.6

The Texas Judicial Council (the Council) proposes to repeal Chapter 175, regarding the Collection Improvement Program. The purpose of the repeal is to implement the change in law made by Senate Bill 891, 86th Legislature, Regular Session (2019).

Fiscal Note

Jennifer Henry, chief financial officer of the Office of Court Administration (OCA), has determined that for each year of the first five-year period the repeal is in effect, there will be no additional cost to the state or local governments resulting from the repeal of Chapter 175. The loss of revenue to the counties and the state that may result from the repeal cannot be determined as it is unknown how many jurisdictions will cease all collection efforts and the result that this may have on the amount of court costs and fees that will be collected.

Public Benefit and Economic Impact

Jeffery Tsunekawa, interim director of research and court services with OCA, has determined that for each year of the first five years following the repeal of Chapter 175, the public benefit will be clarity regarding the effect of Senate Bill 891. There will be no cost to small businesses, micro-businesses, rural communities, or individuals.

Local Employment and Government Growth Impact Statement

Mr. Tsunekawa has also determined that a local employment impact statement for the proposed repeal is not required because there will be no impact to the local economy for each year of the first five years following the repeal of Chapter 175. Mr. Tsunekawa has also determined that the proposed repeal does not: 1) create government programs or employee positions; 2) require an increase or fees paid to the agency; 3) create a new regulation; or 4) expand an existing regulation. The proposed amendment gives effect to Senate Bill 891, the legislation that repeals Art. 103.0033 of the Code of Criminal Procedure, the statutory authority for the rules set out in Chapter 175. As a result of the repeal, funding for one state employee position was also removed from OCA's general appropriation. Additionally, as stated in the fiscal note above, there may be a loss of revenue to the state from the repeal, but whether this will positively or adversely affect the state's economy cannot be determined as it is unknown how many local jurisdictions will cease all collection efforts and the resulting impact this may have on court costs and fees collection.

Comments

Comments on the proposal may be submitted to Jeffrey Tsunekawa at Jeffrey.Tsunekawa@txcourts.gov, P.O. Box 12066, Austin, Texas 78711-2066, or at fax number (512) 463-1648.

Statutory Authority

The repeal is proposed under Government Code §71.019, which authorizes the Council to adopt rules expedient for the administration of its functions and Section 15.01 of Senate Bill 891, which repeals Code of Criminal Procedure Art. 103.0033.

No other statutes, articles, or codes are affected by these sections.

§175.1. Purpose and Scope.

§175.2. Definitions.

§175.3. Collection Improvement Program Components.

§175.4. Content and Form of Local Government Reports.

§175.5. Compliance Review Standards.

§175.6. Waivers.

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 July 25, 2019.

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For further information, please call: (512) 936-7553

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