

Texas Online Public Information – Courts (TOPICs)

Online Citation by Publication

Frequently Asked Questions and Answers

Questions:	Answers:
1. Where can I learn more about the new online service of citation by publication?	Citation by publication to OCA’s website comes from Senate Bill 891 (86R), Article 10, which amended several statutes related to service of citation by publication.
2. Did the new law affect the Texas Rules of Civil Procedure?	Yes. See Rule 116 (Service of Citation by Publication) and Rule 117 (Return of Citation by Publication).
3. What is the effective date for posting citations or other notices required by law on OCA’s website? How does this date impact filings?	<p>The effective date of Article 10 was <i>originally</i> June 1 (unless the article specified otherwise), but the Supreme Court subsequently extended the date to July 1, 2020.</p> <p>Article 10 is <u>not</u> a retroactive law. Consequently, clerks and filers should apply the law in effect at the time service or notice is executed, unless another statute requires otherwise. Put another way, if service was completed prior to July 1, there is no need to publish to the website because the bill was <u>not yet</u> in effect and there is no indication that the Legislature intended a retroactive application. However, for service published on or after July 1, 2020, the Legislature clearly intended the new</p>

	<p>online publication requirement to apply.</p>
<p>4. When is a clerk required to post a citation to the website? (<i>Updated 8/21/2020</i>)</p>	<p>Any citation by publication that requires publication in a newspaper should be posted to the website. When a clerk receives a request to publish citation in the newspaper the clerk should also, without need for an additional request, publish citation to the website.</p> <p>SB 891 did not change the procedure or requisites for requesting a citation by publication. A filer must still file an affidavit and request the clerk to issue citation by publication. The content of the citation must still meet the requisites of the rules unless a statute provides otherwise. See TRCP Rules 109, 109a, 110, and 114.</p> <p>SB 891 simply changes the number of places a filer must serve citation by publication if such service has been approved by the court. Before SB 891, citation by publication was to the newspaper only. Now, such service must be published in the newspaper and on OCA’s Public Information website, unless TRCP 116(b)(2) or some statute provides an exemption (see question #7 for exemptions).</p> <p>The bill also amended a limited number of statues to require publication to the website under</p>

	<p>certain circumstances. See Article 10 of the bill for those statutes.</p>
<p>5. Can a clerk wait to publish citation to the website so that the publication dates align with the newspaper publication?</p>	<p>The statutes and rules are silent as to whether the website and newspaper publications must occur simultaneously. The clerk should consult with the party requesting the posting as to the timing of the publications.</p>
<p>6. Is it the clerk’s responsibility to know when a citation has to be posted only to the website?</p>	<p>No. The clerk is not responsible for determining when to publish only to the website. This is a legal determination, and the clerk is not required to, <u>and should not</u>, make the decision for the filer.</p>
<p>7. Is every citation by publication required to be published in the newspaper and posted to the website? <i>(Updated 9/8/2020)</i></p>	<p>No. TRCP Rule 116(b)(2) does not require newspaper publication if:</p> <ul style="list-style-type: none"> • The party requesting the citation files an affidavit of indigency under TRCP Rule 145; <u>or</u> • Publishing in the local paper would exceed \$200 per week; <u>or</u> • No newspaper publication exists in the county.
<p>8. Should I include anything in the online citation that I would not include in the newspaper publication?</p>	<p>No.</p> <p>SB 891 did not make any substantial changes to the content of citations by publication. It merely provided an</p>

	additional avenue for publishing the citation.
9. After I save a citation, when will it actually post to the website?	A saved citation will post immediately. If it does not, first make sure that you correctly entered and saved the citation. For additional help, contact us at OCA-Legal@txcourts.gov .
10. Can I edit a saved post?	If you need to correct a posted citation, you will need to repost the citation. However, if you wish to change the <u>end date</u> of a citation that is <u>currently active</u> you may do so without reposting the citation.
11. What fees are assessed on a request for Citation by Publication on OCA’s website?	The clerk may charge a posting fee for posting the citation to the website. This fee is the amount set by the Commissioners Court as a posting fee for the sheriffs/constables. The clerk should not charge a second issuance fee if an issuance fee has already been charged for preparing a citation for publication in the newspaper. The issuance fee is \$8 for district clerks and \$4 for county clerks. Please check your local fees for the exact amount set for the posting fee.

<p>12. How does the website calculate the posting period?</p>	<p>The website calculates the period based on the type of case, action, or notice selected and produces a default end date.</p> <p>Once an entry type is selected, the system allows users to extend the end date regardless of the type of case, action, or notice selected.</p> <p>Do note that users CANNOT change a start date to decrease a posting run time. Users can only change end dates.</p>
<p>13. TRCP Rule 116(d)(2) states that online Citations by Publication are required to be posted for at least 28 days before the return is filed. How does that work if a statute has a different return timeline?</p>	<p>Any statute requiring a set time for publishing or posting controls over the Rules. See TRCP Rule 110 (Effect of Rules on Other Statutes).</p>
<p>14. What’s the purpose of the “Other – Citation by Publication or Notice” category?</p>	<p>The “Other – Citation by Publication or Notice” feature allows a clerk to designate the timeframe for a posting if that posting relates to an unspecified or unique case type not listed as an option on the website or was ordered by a court. Selecting this option allows you to decrease or increase the number of days the posting will be displayed (e.g., any notice that requires 10-day postings).</p> <p>Note: if you use the “Other – Citation by Publication or Notice” category, please pay special attention to the end</p>

	<p>date for the posting. <u>At present, the default end date is one day.</u></p>
<p>15. If you are serving an Unknown Heir, Unknown Mother or Father, etc., what should you use in the name field?</p>	<p>Enter the name or language that appears on the citation in the party field (e.g., <i>Unknown Heirs of _____</i>, <i>Unknown Father of _____</i>, etc.). Capture as much information as possible in the name field to make it easier to identify a posting. Entering “Unknown Heirs” and nothing more may create confusion in public searches of the database and archive.</p> <p>SB 891 did not change the content or requisites for a citation that will be published to the newspaper or website. Absent a statute to the contrary, TRCP Rule 114 controls.</p>
<p>16. How do I log in to OCA’s citation by publication website?</p>	<p>If you are an authorized user, submit your email address on the login page and you will receive a link granting you access to the website. If you are <u>not</u> an authorized user, then you will <u>not</u> receive an email granting you access to the website.</p> <p>NOTE: <u>each time</u> you wish to log in to the website you will enter your email address to receive the access link. The website will automatically log you out after 15 minutes of inactivity and you will have to log in again.</p>

<p>17. I entered my email address but did not receive an email that allows me to log in.</p>	<p>Though anyone can review the information posted on OCA’s citation by publication website, only authorized users can log in to and add information to the website. You cannot log in unless your name and email address have been added to the system to grant you authorized user status.</p>
<p>18. I am <u>clerk</u> staff and I need authorized user status.</p>	<p>The elected clerk is the manager of the account and is the only person who can add users and determine their level of access. The elected clerk can assign management duties to the deputy clerk or other designee.</p>
<p>19. I am <u>court</u> staff and I need authorized user status.</p>	<p>Please contact and coordinate with your respective district or county clerk’s office or contact OCA for authorized user access.</p>
<p>20. <u>I am an attorney, or I am a member of the general public,</u> and I want to gain access as a user to post a citation or notice to the website.</p>	<p><u>Neither attorneys nor the general public can be added as an authorized user,</u> and a clerk or other authorized user must post your citation or notice to the website. Therefore, filers and attorneys must coordinate with the clerk in order to have their citations or notices posted to the website. Attorneys and filers must file an application or request with the clerk.</p>
<p>21. I’m an authorized user, but I can’t log in to the website.</p>	<p>First, make sure you log in with the same email address that was used to register you as an authorized user.</p>

	<p>Second, if you receive a link but when clicked the website shows it is expired, it's possible that your IT department has a security protocol preventing the link from working. To get around this, try to copy and paste the sign-in link into your browser. If that does not work, check with your IT department to see if a work-around is available.</p> <p>Lastly, if you don't know what your authorized user address is or if you are having difficulties logging in, please contact us at OCA-Legal@txcourts.gov.</p>
<p>22. Can justice courts use the website?</p>	<p>Yes, but only to post citations by publication in civil cases.</p>
<p>23. Can municipal courts use the website?</p>	<p>No. The website was not created for municipal courts. Please do <u>not</u> post traffic or other criminal-related citations to the website. The website is for civil cases only. If need arises for use, please contact OCA for further guidance.</p>
<p>24. Who receives the return?</p>	<p>The return will be sent to the email address of the authorized user that posted the citation or notice, or to the last email address signed in to make edits or changes to the posting.</p> <p>Also, any equivalent authorized user can log in to check the status of a posting or to download the return,</p>

	regardless of who did the actual posting.
25. What should an authorized user do with the return when it is received? (<i>Added 8/24/2020</i>)	OCA suggests the authorized user both send a copy of the return to the filer and place a copy of the return in the case file.
26. I am looking for the affidavit required by Estates Code §51.103(b)(4) or §1051.153(b)(4).	The return serves as this affidavit. Should you wish to have a different affidavit, please contact us at OCA-Legal@txcourts.gov .
27. <u>I am an attorney, or I am a member of the general public</u> , and I have not seen the citation I requested. Whom do I contact? (<i>Added 9/8/2020</i>)	Please contact and coordinate with your respective district or county clerk’s office on publication status.