

County Clerk

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The office of county clerk is established by the Texas Constitution, which states, “There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for four years, who shall be clerk of the county and commissioners courts and recorder of the county, whose duties, perquisites and fees of office shall be prescribed by the Legislature, and a vacancy in whose office shall be filled by the Commissioners Court, until the next general election.”

In counties with populations less than 8,000, a combination county/district clerk may be elected unless the voters choose to elect separate offices. County clerks must be bonded prior to assuming office and must obtain an errors and omissions insurance policy for themselves and all deputies.

Most of the current duties of the office stem from an 1846 law that required county clerks to record “all deeds, mortgages, conveyances, deeds of trust, bonds, covenants, defeasances, or other instruments of writing, of or concerning any lands, and tenements, or goods and chattels, or moveable property of any description...”. This law also stated that all marriage contracts, powers of attorney, and official bonds be recorded. Today, the majority of the duties still pertain to the receipt, custody and issuance of a wide array of documents, instruments, certificates, licenses and other official papers in addition to the clerk’s duties to the county courts.

The county clerk acts as an ex officio member of the county commissioners court, serves as the official clerk for the court, and is required to attend all sessions and record all proceedings.

The office is charged with keeping all books, papers, records and effects belonging to the commissioners court. Other duties may include assisting the county judge in preparing the court agenda and posting notice for each court meeting. In addition, the clerk may handle correspondence for the court, assist the commissioners as they sit on special committees, and perform other services requested by the court.

As the clerk of the constitutional county court and county courts at law, the county clerk works with judges, grieving families, defendants and jurors. These courts include at law probate courts, mental health courts, juvenile courts and county criminal courts. The clerk’s duties in these courts are varied and include filing cases, issuing processes, maintaining minutes of proceedings, collecting costs and fines, and arranging for commitments and appeals. Jurisdictional transfers between county and district courts are also handled by the county clerk’s office.

The county clerk is responsible for administering all county and state elections, including early voting and primaries, unless the commissioners court has transferred this function to the tax assessor-collector or county elections administrator.

Various statutes, court opinions, and attorney general opinions detail the county clerk’s duty to serve as the county recorder. As the county’s recorder, the clerk’s role is to determine if a document is suitable for filing and to file, record and index many different documents. The clerk

also is responsible for developing and administering a records management program, ensuring the preservation of valuable and essential records, and cooperating and complying with the Texas State Library. All birth and death certificates as well as marriage licenses are maintained in this office. Additionally, the clerk acts as the liaison to the Bureau of Vital Statistics, a division of the Texas Department of Health.

Other record-keeping duties of the county clerk include recording all real estate instruments, subdivision maps/plats, financial records, elected officials' monthly reports, federal and state tax liens, abstract judgments, juvenile records and military records. This position requires knowledge of a great many laws, recording fees, acknowledgment requirements and indexing.

The clerk also handles probate records, mental/chemical dependency proceeding records, and doing business under assumed names. The county record manager is in charge of filming and storage of all required county records from 1856 to present and must comply with state records retention mandates.

If a county does not have a county surveyor, the county clerk is to act as the custodian of the county surveyor records. All county officials who are required to execute a bond before undertaking the duties of office must have their bond kept and recorded in the county clerk's office. Other responsibilities include maintaining records on all wills, probates, deed records, deeds of trust, liens and abstracts. Identification methods for all livestock must be recorded with the clerk of the county in which the animals are located.

A great deal of money is collected by this office in the form of fines, fees of court, and marriage license fees. Other collected fees include filing fees, costs for certified copies, court fees that stay in the county, miscellaneous copies, and beer license fees.

A county clerk must complete 20 hours of instruction regarding the performance of the clerk's duties of office during each calendar year that begins after the clerk's election or appointment to office. At least one of these hours of instruction must address registry funds handled under Chapter 117 of the Local Government Code, and one hour of instruction must address fraudulent court documents and fraudulent document filings.

For more information on the office of County Clerk or other county government topics and issues, please contact the V.G. Young Institute of County Government.

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