

PREFACE

About this Book

Many of today's court clerks will no doubt be surprised by this statement, but once upon a time there was no organized training available for municipal court clerks. In those days, there was no Regional Clerk Seminar, no Court Clerk Certification Program, and no single guide for municipal court practice. This changed more than 20 years ago when TMCEC, with a committed group of court clerks and judges, embraced the idea that it was not only judges that needed access to continuing education. Individuals like Margaret Robbins, the first Clerk Program Director for TMCEC, led the effort to provide guidance to court clerks at a time when even judicial education was still developing. The result of these efforts included the original edition of the book that you now have in your hands.

This book is one of the oldest continuous publications offered by TMCEC. The Guide predates the *Judge's Book*, the *Class C and Fine-only Misdemeanors Handbook* (the "Green Book"), and even (just barely) the Certification Program itself. In the early days, the Guide was solely tied to the Certification Program. Attend a test review session and you could get a copy of the Guide in a 3-ring binder. Traces of this remain, as the Guide is still known informally as the "Study Guide." In fact, up to 2013, the title on the cover still read, a bit cryptically, "Municipal Court Clerk Certification Program: Level I." The group that created the original Guide, of course, knew what they were doing. This book is easily the most important single resource for preparing to take the certification test. Times have changed, though, and while it remains primarily a study tool, the Guide is also used as quick reference or as a knowledge base by court clerks, judges, and prosecutors across Texas. The perception of the court clerk has changed as well. More and more cities are looking at the court clerk as a court professional. Professionals deserve an equally professional publication that guides them, not only to pass a test, but also to gain a level of understanding of municipal court that is expected of a professional. Looking back at the progression of editions, the development and professionalization of court clerk education is obvious. From the first edition in a 3-ring binder, to the ninth edition as a collection of loose-leaf papers topped by a blue cardboard cover, to the current thirteenth edition with actual spiral binding, the Guide has evolved with the development of court clerk education.

The Thirteenth Edition

First, it is important to note that compared to the last two editions, there have been considerably less changes to this Guide following the 87th legislative session. Changes to look for in Level II include updates to jail-time credit and revisions to improve the clarity of information and to remove information that is outdated or no longer relevant,

Second, every two years revisions to this book are approached with an eye to what is happening around the state. TMCEC staff and attorneys have the opportunity to travel and visit with clerks and judges at our seminars from El Paso to Houston, from Amarillo to McAllen, and every point in between. There are certain recurring questions, and topics, that often jump out as areas that need further education or explanation. This is not to mention the legal calls that TMCEC attorneys receive. Oddly, every call can generally be categorized, and there have been times that unrelated callers have asked the same question within minutes of each other. There are only four to five attorneys that answer these calls for every municipal court in Texas; you can bet TMCEC hears about current recurring issues. Consequently, in this edition you will find certain sections have been edited to address confusion. These include areas such as the right to counsel, court records requests, and the classic number one question asked on the 800 line from 2014 – 2016: "how do I know it's a commercial driver's license?"

Third, those familiar with prior editions will note formatting changes that were first rolled out in the Eleventh Edition. Considerable efforts have been made to both Guides to provide for different learning types and also to make the material more accessible. Due to the fact that many clerks not only use this book to study for a test, but also as a quick reference, practice notes continue to be added throughout the texts. These can be found in shaded boxes titled "Practice Note" within the chapters. Some are provided to give clerks

additional background in the subject matter, and some provide suggested practices or interesting legal issues on a topic.

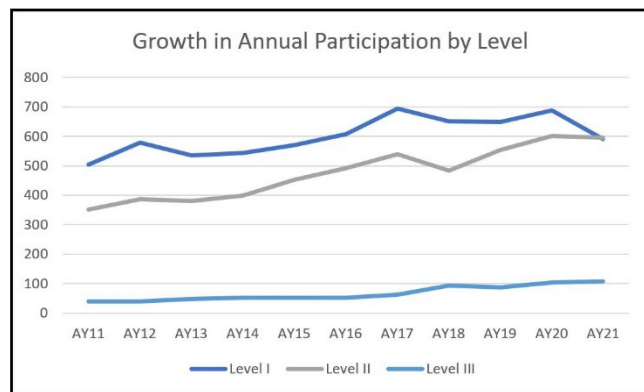
Fourth, in Level II it is assumed that the reader has read and mastered concepts first presented in Level I. Some chapters will “get the reader up to speed” by reviewing legal concepts. Most of the chapters in this book, however, such as Children and Minors or Bond Forfeitures, will jump right into the material assuming basic concepts were mastered in Level I.

Finally, do not forget about the Appendix. The glossary of defined terms has been expanded in Appendix A and quick legal reference cards have been added to Appendix B. These are by no means meant to be a comprehensive dictionary; rather, they are meant to be another resource to assist in understanding certain concepts. These resources are also intended to give new court clerks foundational knowledge. There are literally enough Latin terms to fill a legal dictionary. The goal with the quick reference is to get new clerks started with some basic knowledge to help them begin to grasp the language of the law. It is highly recommended that new clerks reference these at the New Clerks Conference. For Level II, the resources may provide a quick reminder or refresher on the material.

Court Clerk Certification Program

The Municipal Court Clerk Certification Program celebrated its 25th anniversary in 2021 and is still going strong in 2022. Considering it is only a little more than two decades old, the program has grown by leaps and bounds. Part of this can be attributed to a greater understanding among municipal courts around the state as to the importance of court clerk education and part to the growing perception in cities that a certified court clerk may help run the municipal court more efficiently, professionally, and accurately. The days of plugging in any city employee into the court are long past. Today’s court clerks handle tasks that require an increasingly professional workforce. This includes handling confidential juvenile records, processing both criminal and civil cases, and accurately reporting dispositions of certain cases to the state and national criminal databases that effect a person’s ability to possess firearms.

Participation in the certification program is consistently on the rise, with the exception of a downturn in 2020 due to COVID-19. There has been nearly a 45% increase in participation over the last 10 years. Certification at the highest level, Level III, has almost tripled in the last 10 years. It is highly recommended that new court clerks or those that are not yet certified participate in the program. San Antonio, which requires all court clerks to be at a minimum certified at Level I celebrated its first ever Level III clerk in 2020. The Municipal Courts of Georgetown, Katy, League City, Richardson, Round Rock, and Webster are all tied for the greatest number of Level III Certified Clerks with three each. Anecdotal evidence also suggests that cities are looking for certified court clerks increasingly in job postings.



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The certification program curriculum that court clerks are tested on is tied to this book, the New Clerks Conference, and individual presentations in the Fundamentals Track at every Regional Clerk Seminar. That is to say, the goal is to take common areas of the law encountered in municipal court, as outlined in the Guide, and then provide multiple avenues to learn the area. A clerk will encounter a discussion on the right to counsel in municipal courts at New Clerks, for example, and then may read about important legal concepts governing the right in this Guide, and then participate in a breakout class discussion at Regional Clerks on the topic. In the words of writer Douglas Adams’s fictional detective Dirk Gently, “everything is connected.”

How to Use the Guides

One goal of this book is to help municipal court clerks prepare for the court clerk certification exam. Using this book as a study guide and answering the practice questions is the single best method to prepare for the certification exam. The practice questions are not the exact same questions that appear on the exam, but they test on similar concepts and are generally of a similar style to those that clerks will encounter on the exam. The material in the guide is divided into chapters with related questions following each topic or section. Answers to the questions may be found at the end of each chapter. To help clerks find specific topics, a table of contents is found at the start of each chapter. As stated, the most efficient way to prepare for the exam with this guide is to read and review the material in each section then work through all the questions. Upon completion of each section, check your answers with the answer key and correct your work.

Not Legal Advice

Every effort has been made to ensure the accuracy and completeness of this work; however, the guide is a summary of applicable law and is not an authority. Throughout the text, the law is frequently paraphrased to facilitate understanding. This study guide is for educational purposes only and may not be used as a substitute for legal advice or counsel. Should any material in this publication conflict with constitutional, statutory, or case law, the law provided by the constitution, statute, or case prevails.

This book is intended to be a guide; and as such, it is not a substitute for thorough legal research and the advice of legal counsel or your police advisor. It is not intended to provide legal advice. If you are using this book as a secondary reference, this book should be the starting point to your research. Individual statutes may have additional requirements, including culpable mental states, specific elements, or defenses that this book does not explore in depth or as comprehensively as to be substituted for legal advice provided by an attorney. As always, consult your legal counsel for specific questions of law or application.

Acknowledgements

This book would never have come into being or lasted as long as it has without the incredible efforts of many individuals throughout the years. This includes the original efforts of Margaret Robbins and the court clerks that worked together to create this book. Clerks everywhere remain grateful to this day. In addition, every Clerk Program Director in the last 20 years has had the pleasure of editing this book in very short order following a legislative session. It is not an easy task by any means. We also remain grateful to TMCEC staff, faculty, and the many individuals who have made suggestions, offered edits, or provided opinions on the use of this book throughout the years.

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