

# State Reporting and Court Costs

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## INTRODUCTION

State laws require municipal courts to file reports with certain state agencies and to remit court costs and some fines to the State. This reporting is among the most important responsibilities that a municipal court is tasked with by the State. Proper reporting has a direct impact on the daily lives of defendants, including driving privileges, the right to certain remedies, the level of future criminal punishments, and even the efficiency and standards of their court experience.

There are generally three large state agencies that require reporting. They are the Department of Public Safety (DPS), the Office of Court Administration (OCA), and the State Comptroller of Public Accounts (CPA). These agencies have their own administration rules or regulations, and they typically provide specific guidelines and forms for reporting. It is important to be familiar with both the reporting requirement and the agency guidelines. The judge is ultimately responsible for what happens in the court; however, state reporting is generally delegated to the court clerk. This means that the clerk will be directly responsible for a report that could affect the daily life, property, or even liberty of an individual. In addition, state legislators may be reviewing data compiled in these reports when considering new laws. Thus, the court clerk's actions, or inaction, may have a tremendous effect on the state and criminal justice system well beyond the walls of the courthouse.

This chapter will provide an overview of state reporting in order to help court clerks gain a broad understanding of the process and an appreciation for the value of reporting. As mentioned, each agency will have specific guidelines for its report. Clerks should refer to that specific agency for questions on the clerk's actual report.

## PART 1 REPORTS TO THE DEPARTMENT OF PUBLIC SAFETY

### A. Transportation Code

Each magistrate or judge of a non-record court and clerk of a court of record is required to keep a record of each case in which a person is charged with a violation of law regulating the operation of vehicles on highways. Sec. 543.201, T.C. Courts are required to then report traffic convictions and bond forfeitures to DPS. Section 543.202 of the Transportation Code requires courts to report the following information:

- the name, address, physical description including race or ethnicity, date of birth, and driver's license number of the person charged;
- the registration number of the vehicle involved;
- whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;
- the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver's learner's permit;
- the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;
- whether a search of the vehicle was conducted and whether consent for the search was obtained;

- the plea, the judgment, whether the person completed a driving safety course; and whether bail was forfeited;
- the date of the conviction; and
- the amount of the fine or forfeiture.

## 1. Reporting Driving Safety and Motorcycle Operator Course Dismissals

As discussed in the last chapter, defendants may elect to take a driving safety course (DSC) or a motorcycle operator training course (MOC), whichever is applicable, to have certain traffic violations dismissed. Art. 45.0511, C.C.P. When the defendant completes the course and timely submits proof to the court, the court must dismiss the case and report to DPS the date of completion of the course. Art. 45.0511(l), C.C.P.

### Practice Note

Why report a Driving Safety Course if it is successfully completed? Remember that in order to be eligible for a mandatory driving safety course, the defendant cannot have taken a course within the 12 months preceding the date of the offense. 45.0511(b)(2), T.C. The only way for a court to know whether a defendant has taken a course for dismissal in any of the hundreds of municipal and justice courts in Texas is to report this information to DPS! It then appears on the defendant's driving record. This is the reason that the law requires a driving record to be provided to the court for DSC.

## 2. Reporting Teen Court Dismissals

If a defendant charged with a traffic offense is granted teen court under Article 45.052 of the Code of Criminal Procedure, the court is required to report the completion date of the teen court program to DPS. Art. 45.052(d), C.C.P.

## 3. Reporting Traffic Cases Dismissed Under Deferred Disposition

The court is prohibited from submitting a record of a dismissal following successful completion of a deferred disposition under Article 45.051 of the Code of Criminal Procedure to DPS unless the judge subsequently adjudicates the defendant's guilt because the defendant failed to comply with the terms of the deferral. Then the judge must submit the record not later than the seventh day after the date on which the judge adjudicated guilt. Sec. 543.204, T.C.

## 4. Reporting Certain Convictions for Administrative DL Suspension

### a. Fictitious License or Certificate by Person Under 21

Section 521.453 of the Transportation Code provides that a person under the age of 21 may not possess, with the intent to represent that the person is 21 years of age or older, a document that is deceptively similar to a driver's license or a personal identification certificate issued by DPS unless the document displays the statement "NOT A GOVERNMENT DOCUMENT"

### **Sec. 521.347, T.C.**

The court in which a person is convicted of an offense that requires automatic suspension under 521, T.C. or 522, T.C. may require the person to surrender the driver's license to the court.

diagonally printed clearly and indelibly on both the front and back of the document in solid red capital letters at least one-fourth inch in height.

DPS will automatically suspend a person's driver's license upon conviction of this offense upon receiving the report of conviction from the court. The period of suspension shall be for the period set by the court of not less than 90 days or more than one year. If the court does not set the period, DPS

shall suspend the license for one year. Sec. 521.346, T.C.

#### **b. Reporting Subsequent Offenses for Passing a School Bus**

On a second or subsequent conviction for the offense of passing a school bus, the court may order the defendant's driver's license to be suspended. Sec. 545.066(d), T.C. The suspension cannot be for any longer than six months beginning from the date of conviction.

#### **c. Failure to Comply with the Nonresident Violator Compact**

All but six states in the U.S. have signed on to the *Nonresident Violator Compact* (NVC). Created in 1977, the NVC recognized that out-of-state motorists charged with traffic offenses were faced with inequitable options for handling traffic citations, including mandatory posting of a bond, automatic detention, or immediate transport to court, all requiring significant law enforcement resources as well. The NVC seeks to allow motorists to receive the same treatment regardless of their state of origin while at the same time promoting compliance with the traffic laws of each state.

The compact requires that the issuing officer of any citation to an out-of-state motorist who has a driver's license from a compact state may not require a bond and must be given a citation rather than face full custodial arrest. Sec. 703.002, Art. III(a), T.C. If the motorist then fails to comply with the terms of their promise to appear, the court must then report the failure to DPS, which in turn will notify the licensing authority in the motorist's home jurisdiction. Sec. 703.002, Art. III(c), T.C.

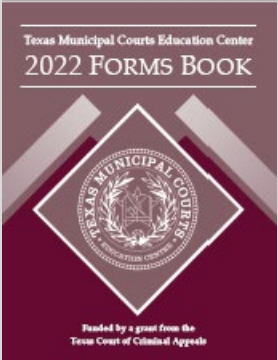
Once the motorist's home state receives notice from DPS, the home state must notify the defendant and initiate a driver's license suspension action. Sec. 703.002, Art. IV(a), T.C. If the suspension is deemed appropriate under that state's laws, the defendant's driver's license will be suspended until satisfactory evidence is presented of the motorist's compliance. Sec. 703.002, Art. IV(a), T.C. Members of the compact may also request the suspension of the driver's license of any Texas resident who fails to respond to a citation in the other state's respective jurisdiction. Ch. 703, T.C. All states and the District of Columbia are members except Alaska, California, Michigan, Montana, Oregon, and Wisconsin.

#### **(1) Procedures**

When an out-of-state violator fails to respond to a citation or to pay a fine for a violation, the court reports this to DPS on the *Notice of Failure to Comply* form, which includes vital information about the defendant, the court, and the alleged violation. This form can be ordered in

six parts, or courts can use the single form with six copies. The steps to report non-compliance of an out-of-state violator are as follows:

- mail the original form (first page) to the defendant;
- hold form in file for 15 days to await response from the defendant;
- if the defendant fails to answer notice, mail second and third pages of the form to DPS;
- retain the fourth, fifth, and sixth pages of the notice in the court file; and
- when the defendant resolves the case; mail the fourth page (defendant's receipt) to the defendant and fifth page (notice of withdrawal of suspension) to DPS.

	<p><b>Practice Note</b></p> <p>NVC forms, in addition to many other useful court forms, are available in the Department of Public Safety section of Government &amp; Agency Forms in the TMCEC <i>2022 Forms Book</i>. This book is no longer available in hardcopy, but the forms may be downloaded. These and other municipal court forms are available for download on the TMCEC website: <a href="http://tmcec.com/resources/books/forms_book/">http://tmcec.com/resources/books/forms_book/</a>.</p>
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**(2) Statutorily Exempt Violations**

The NVC applies to violations of traffic violations, but Section 703.002, Article III of the Transportation Code says that no action will be taken under the terms of the NVC for the following violations:

- offenses which mandate personal appearance;
- moving traffic violations that alone carry a suspension;
- equipment violations;
- inspection violations;
- parking or standing violations;
- size and weight limit violations;
- violations of law governing the transportation of hazardous materials;
- motor carrier violations;
- lease law violations; and
- registration law violations.

### (3) Time Limit for Reporting

It is important for the court to promptly file these reports because DPS may not transmit a report on any violation if the date of the transmission is more than six months after the date on which the traffic citation was issued. Sec. 703.002, Art. III(f), T.C.

### 5. Failure to Report

If a judge, magistrate, or clerk fails to submit a traffic conviction report to DPS, he or she may be removed from office for misconduct. Sec. 543.206, T.C. Misconduct of office is any unlawful behavior by a public officer in relation to the duties of his or her office. It includes a failure to act when there is an affirmative duty to act.

### 6. Time to Report

Courts are required to report the convictions or forfeiture of bail to DPS by the seventh day after the date of the conviction or forfeiture of bail containing the information noted above. Sec. 543.203, T.C. To count the seven days, start with the day after the date of final judgment or when the final judgment of bond forfeiture was entered. Sec. 311.014, G.C. DPS requires electronic reporting, and courts must contact DPS to get a secure identification number.

#### Sec. 543.203, T.C.

The court shall report to DPS not later than the seventh day after date of conviction or forfeiture of bail of a person violating a law regulating the operation of a vehicle on a highway.

#### Practice Note

The reporting deadline was shortened in 2009 to the current seven days. This is due to federal government rules that allow DPS only 10 days from the date of conviction to report certain convictions for commercial motor vehicles and commercial driver's license holders to the federal government. This may be an issue as the defendant still has three more days in which to appeal the conviction at the point this report is due. Regarding this conflict, DPS has been of the opinion in the past that it would rather courts report and then submit a conviction correction report than not report and jeopardize federal reporting deadlines.

### B. Alcoholic Beverage Code

Courts are required to report to DPS certain information regarding Alcoholic Beverage Code offenses committed by minors. Sec. 106.117, A.B.C. For offenses under Chapter 106, this includes actual conviction for the offense, an order of deferred disposition, or an acquittal for the offense of DUI-Minor. The Alcoholic Beverage Code defines a minor as any person under the age of 21. Sec. 106.01, A.B.C.



## 1. Reporting Convictions

The court is required to order the DPS to suspend a minor's driver's license upon conviction for certain offenses under the Alcoholic Beverage Code. If the minor does not have a driver's license, then it is still reported and DPS will deny the issuance of a driver's license or permit for the same period of time as a license suspension. Sec. 106.071(d)(2), A.B.C. The suspension or denial is effective the 11th day after the minor is convicted. In addition, a prior deferred disposition for one of the offenses under Chapter 106 is considered a prior conviction for purposes of this section only. 106.071(f)(2), A.B.C.

### Sec. 106.071(h), A.B.C.

A driver's license suspension under this section takes effect on the 11th day after the date the minor is convicted.

This applies to the offenses of Purchase of Alcohol by a Minor (Sec. 106.02); Attempt to Purchase Alcohol by a Minor (Sec. 106.025); Consumption of Alcohol by a Minor (Sec. 106.04); Possession of Alcohol by a Minor (Sec. 106.05); and Misrepresentation of Age by a Minor (Sec. 106.07).



The court's report of the suspension or denial of issuance of driver's license notifies DPS of the conviction. The law provides that the length of suspension or denial is specifically set at 30 days for a first conviction, 60 days for a second conviction, and 180 days for a third or subsequent conviction.

Note that a municipal court does not have jurisdiction over third and subsequent Alcoholic Beverage Code offenses committed by minors age 17 and over because the penalty includes confinement in jail. Sec. 106.71(c), A.B.C.

## 2. Failure to Complete Alcohol Awareness Program or Community Service

The judge is required to order that a defendant attend an alcohol awareness program, drug education program, or drug and alcohol driving awareness program, and complete a certain number of community service hours for offenses committed by a minor in Chapter 106 of the Alcoholic Beverage Code. The offenses Purchase of Alcohol by a Minor (Sec. 106.02); Attempt to Purchase Alcohol by a Minor (Sec. 106.025); Consumption of Alcohol by a Minor (Sec. 106.04); Possession of Alcohol by a Minor (Sec. 106.05); and Misrepresentation of Age by a Minor (Sec. 106.07) require 8-12 hours of community service and completion of an alcohol awareness, drug education, or drug and alcohol driving awareness program (DADAP). Sec. 106.115, A.B.C. For offenses committed on or after June 1, 2023, DADAP will no longer be an eligible course under Sec. 106.115, A.B.C.

The offense of Driving Under the Influence of Alcohol by Minor (DUI) under Section 106.041 of the Alcoholic Beverage Code has similar requirements, but a different number of community service hours. The hours for DUI are listed within 106.041, rather than in the general penalty. Sec. 106.041(d), A.B.C.

If the defendant fails to show evidence of completion of the requirements, the judge is required to order DPS to suspend or deny issuance of the driver's license for a period of time not to exceed six months (Sec. 106.115(d), A.B.C.).



Interestingly, for defendants under age 18, the law allows the court to order the defendant's parent or guardian to attend the court ordered alcohol or drug program with the defendant. Sec. 106.115(a), A.B.C.

### 3. Orders of Deferred Disposition for an Alcoholic Beverage Code Offense

Courts must report to DPS an Alcoholic Beverage Code offense deferred under Article 45.051 of the Code of Criminal Procedure. Sec. 106.117(a)(3), A.B.C.

- The report must be submitted to DPS when the court grants the deferred. If the defendant fails to complete the terms of the deferral, the court, upon entering a conviction, orders the defendant's driver's license suspended. The court, however, does not have to notify DPS of this suspension if the defendant failed to complete the required awareness program during the deferral period because the court is required to order DPS to suspend the defendant's driver's license for a period not to exceed 180 days.
- Notice of the deferred disposition must be in a form prescribed by DPS and must contain the driver's license number, if any, of the defendant. Sec. 106.117(c), A.B.C.
- If the defendant fails to complete the awareness program, the court must order DPS to suspend or deny issuance of the driver's license and report this order to DPS.

### 4. Acquittals of Driving Under the Influence

Section 106.117(a)(4) of the Alcoholic Beverage Code requires courts to report to DPS the acquittal of the offense of driving under the influence of alcohol (DUI) by a minor. The court must submit this report to DPS.

## C. Penal Code

### 1. Public Intoxication by a Minor

When a person under the age of 21 is charged with the offense of public intoxication, the court must follow the punishment rules required when a person is convicted of committing an Alcoholic Beverage Code offense. Sec. 49.02(e), P.C.

The court must:

- set the fine at no more than \$500;
- order DPS to suspend or deny issuance of the driver's license;
- require community service; and
- require attendance at an alcohol awareness program, drug education program, or drug and alcohol driving awareness program.

If the defendant does not complete the ordered program or perform the community service, the court must order DPS to suspend or deny issuance of a driver's license for a period not to exceed six months. Secs. 106.071 and 106.115, A.B.C. This suspension or denial of issuance of a driver's license is handled in the same manner as Alcoholic Beverage Code convictions. The following lists the procedures for reporting:

- The suspension takes effect on the 11th day after the date the minor is convicted (date judgment is entered).
- Clerks should submit the report as soon as possible after the judgment date.
- If the conviction is for a first offense, the suspension or denial of issuance of a driver's license is for 30 days.
- If the charge is filed as a second offense, then the conviction is a second conviction and the suspension or denial is for 60 days.

## **2. Possession of Alcoholic Beverage in Motor Vehicle**

The offense of possession of an alcoholic beverage in a motor vehicle in Section 49.031 of the Penal Code is commonly referred to as "open container." Although this offense is in the Penal Code, it is considered a traffic offense. Courts are required to report convictions of this offense to DPS.

## **3. Theft of Gasoline**

Municipal court has jurisdiction over theft under Section 31.03 of the Penal Code if the pecuniary loss is less than \$100. The court must report all convictions of theft of gasoline to DPS. After DPS receives a report of a second conviction of theft of gasoline, DPS will automatically suspend the defendant's driver's license. Sec. 521.349, T.C.

Section 521.349 of the Transportation Code authorizes DPS to automatically suspend the defendant's driver's license for 180 days from the date of final conviction when there is a special affirmative finding under Art. 42.019, C.C.P. In the event the defendant's license is revoked or the defendant does not have a driver's license, the period of license denial is 180 days after the date the person applies for reinstatement or issuance of a driver's license. If the defendant has previously been denied a license under this section or had a license suspended, the period of suspension is one year from the date of a final conviction. The period of license denial is one year after the date the person applies to DPS for reinstatement or issuance of a driver's license.

## **D. Health and Safety Code – Failure to Complete Tobacco Awareness Program**

For offenses committed prior to September 1, 2019, the court is required to order DPS to suspend or deny issuance of a driver's license for a period not to exceed 180 days if the defendant fails to

complete the e-cigarette or tobacco awareness program or e-cigarette or tobacco related community service. Sec. 161.254, H.S.C.

#### **Practice Note**

The 86th Legislature made a number of changes to the statute relating to e-cigarettes, cigarettes, and tobacco products. This included raising the age for possession of these products to 21, reducing the maximum fine amount for the offense to \$100, and removing the authority of the court to report a driver's license suspension if the remedial classes were not completed. Section 161.254 of the Health and Safety Code, cited above, was fully repealed. The bill changing the law specifically made it effective, however, only for offenses committed on or after September 1, 2019. This means that courts will need to apply the old law, including the requirements of the repealed law, for those offenses committed prior to September 1, 2019.

#### **E. Persons Under 17: Failure to Appear, Pay, or Violation of a Court Order**

When a person under the age of 17 fails to pay a fine or court costs, violates a court order, or fails to appear, the municipal court conducts a contempt hearing. If the court finds the juvenile in contempt, the court may order DPS to suspend or deny issuance of the driver's license as a sanction of the contempt. Art. 45.050(c)(2), C.C.P.

- When the court reports the order, DPS shall suspend or deny issuance of a driver's license until the child fully complies. Secs. 521.201(8) and 521.3451, T.C.
- A minor whose license is suspended or revoked under this statute must pay a \$100 reinstatement fee to DPS. Sec. 521.313, T.C. The defendant, however, cannot get his or her driver's license until the court has sent in a report that the defendant has made a final disposition on the case.

#### **F. New Trial**

When a defendant requests a new trial, the court does not report a conviction or order of driver's license suspension or denial unless the defendant is not granted the new trial and does not appeal. If a new trial is granted, the court reports upon conviction at the second trial when the defendant does not appeal. The report is submitted in the same manner as if no new trial had been granted.

#### **G. Appeals**

When a defendant appeals his or her conviction, the municipal court does not report the conviction or driver's license suspension because the municipal court judgment is not a final conviction. In non-record courts, if the defendant is convicted at the county level, the county court reports the conviction to DPS. In municipal courts of record, if the judgment is affirmed on appeal, the municipal court reports the conviction.

As mentioned above, for purposes of reporting convictions of traffic laws, the report must be made by the seventh day following the date of conviction. As defendants generally have 10 days

to appeal, the court cannot wait for the appeal time to run before submitting the report. Thus, courts should be prepared to submit a conviction correction form when the defendant appeals and the judgment is no longer final.

## H. Chart of Forms

Note: DPS forms are listed below, but conviction reporting should be done electronically.

	DL-115	DIC-81	DR-18	DIC-21
<b>Alcoholic Beverage Code</b>	<p><b>Chapter 106: (Minors Under Age 21)</b></p> <ul style="list-style-type: none"> <li>• Conviction: driver's license suspension or denial of driver's license (Sec. 106.071, A.B.C.).</li> <li>• DUI acquittal (Sec. 106.117(4), A.B.C.).</li> <li>• Deferred disposition order (Sec. 106.117(3), A.B.C.).</li> <li>• Failure to complete awareness program: must order suspension or denial of driver's license (Sec. 106.115(c) and (d), A.B.C.).</li> <li>• Failure to complete community service: must order suspension or denial of driver's license (Sec. 106.115(c) and (d), A.B.C.).</li> </ul>	<p><b>Under Age 17</b></p> <ul style="list-style-type: none"> <li>• Failure to appear: DPS suspends or denies driver's license (Sec. 521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and orders driver's license suspended or denied as a sanction of contempt.</li> </ul>		

	DL-115	DIC-81	DR-18	DIC-21
<b>Health and Safety Code</b>		<p><b>Under Age 17</b></p> <ul style="list-style-type: none"> <li>• Failure to appear: DPS suspends or denies driver's license (Sec. 521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and orders driver's license suspended or denied as a sanction.</li> </ul>		

<b>Penal Code</b>	<b>Public Intoxication Minor - Sec. 49.02(e), P.C.</b> <ul style="list-style-type: none"> <li>• Driver’s license suspensions or denial of driver’s license on convictions.</li> <li>• Orders of deferred disposition.</li> <li>• Failure to complete awareness program: court must order suspension or denial of driver’s license.</li> <li>• Failure to complete community service: court must order suspension or denial of driver’s license.</li> </ul>	<b>Under Age 17</b> <ul style="list-style-type: none"> <li>• Failure to appear: DPS suspends or denies issuance of driver’s license (Sec. 521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and orders driver’s license suspended or denied as a sanction.</li> </ul>	<ul style="list-style-type: none"> <li>• Motor Vehicle Fuel Theft (Sec. 31.03, P.C.).</li> <li>• Open Container (Sec. 49.031, P.C.).</li> </ul>	
<b>Transportation Code</b>		<b>Under Age 17</b> <ul style="list-style-type: none"> <li>• Failure to appear: DPS suspends or denies issuance of driver’s license (Sec. 521.3452, T.C.).</li> <li>• Failure to pay: court conducts a contempt hearing under Art. 45.050, C.C.P., and judge orders driver’s license suspended or denied as a sanction.</li> </ul>	<ul style="list-style-type: none"> <li>• All traffic convictions and final bond forfeitures including city traffic ordinances (Sec. 543.201, T.C.).</li> <li>• Dismissals of DSC or MOC (Art. 45.0511, C.C.P.).</li> <li>• Passing a School Bus - Sec. 545.066(d), T.C.).</li> <li>• On second or subsequent conviction, court may order driver’s license suspended for not longer than six months beginning on conviction date.</li> </ul>	Convictions of offenses under Sec. 521.453, T.C. Driver’s license suspension is not less than 90 days or more than one year. (Sec. 521.346, T.C.)

True or False

1. Courts are required to keep and maintain certain information on defendants charged with traffic violations. \_\_\_\_\_
2. Courts must report nonresident defendants convicted of traffic violations within six months. \_\_\_\_\_
3. Courts must report to DPS forfeitures of bail on defendants charged with traffic violations even though the defendant has not been convicted. \_\_\_\_\_
4. Courts must report dismissals when a defendant charged with a traffic offense completes deferred disposition. \_\_\_\_\_
5. If a court fails to report traffic convictions to DPS, the judge or clerk could be removed from office for misconduct. \_\_\_\_\_
6. Courts must report traffic convictions not later than the seventh day of conviction. \_\_\_\_\_
7. When a defendant is convicted of an Alcoholic Beverage Code offense, what information must the court report to DPS? \_\_\_\_\_
8. When is a suspension or denial of a driver's license for a conviction of an Alcoholic Beverage Code offense effective? \_\_\_\_\_
9. What DPS form does the court use to report a conviction for an Alcoholic Beverage Code offense? \_\_\_\_\_
10. What is the maximum driver's license suspension length a judge can order when a defendant fails to complete an alcohol awareness program? \_\_\_\_\_
11. What form is the court required to use to notify DPS of the court's order suspending the driver's license of a defendant who failed to complete the alcohol awareness program? \_\_\_\_\_
12. When can the court order a driver's license suspension for a defendant under 17 who fails to pay a fine and costs? \_\_\_\_\_
13. When a defendant charged with an Alcoholic Beverage Code offense is granted deferred disposition, what must the court report to DPS? \_\_\_\_\_
14. If a defendant is found not guilty of the offense of driving under the influence of alcohol by a minor, what is the court required to report to DPS? \_\_\_\_\_
15. Although the offense of possession of an alcoholic beverage in a motor vehicle is a Penal Code offense, what is the court required to report to DPS? \_\_\_\_\_
16. What is the court required to report for conviction of theft of gasoline? \_\_\_\_\_
17. Who is required to keep a record of defendants charged with traffic offenses? \_\_\_\_\_
18. Who may keep the records of defendants charged with traffic offenses? \_\_\_\_\_

True or False

19. The court must report final judgments on bond forfeitures for traffic offenses. \_\_\_\_\_
20. The court must notify DPS of convictions for city ordinance traffic offenses. \_\_\_\_\_
21. When a defendant is granted a time payment plan to pay a fine, the court waits until the final

- payment before reporting the conviction to the DPS. \_\_\_\_\_
22. The court is required to send notice of all traffic convictions to DPS. \_\_\_\_\_
  23. When a defendant discharges a traffic fine by community service, the court does not report that traffic conviction to DPS because the court did not collect any money. \_\_\_\_\_
  24. List information to be reported to DPS on drivers of CMVs. \_\_\_\_\_  
\_\_\_\_\_
  25. When a defendant is convicted of an offense that requires automatic driver's license suspension, what may the court do with the defendant's driver's license? \_\_\_\_\_  
\_\_\_\_\_
  26. For offenses that require automatic driver's license suspension, what is the minimum and maximum amount of time the court may suspend the license? \_\_\_\_\_
  27. When a defendant is convicted of an offense that requires an automatic driver's license suspension, what form must the court use to report that conviction? \_\_\_\_\_  
\_\_\_\_\_
  28. When a court reports to the DPS a defendant's completion of a driving safety course, what information must the court report? \_\_\_\_\_
  29. What must the court report when a defendant charged with a traffic offense completes teen court? \_\_\_\_\_
  30. What does a court do when a defendant under the age of 17 fails to appear or fails to pay a fine for a traffic offense? \_\_\_\_\_
  31. If an out-of-state defendant fails to appear, what can the court do? \_\_\_\_\_  
\_\_\_\_\_
  32. If an out-of-state defendant resolves the case with the court, what is the court required to do? \_\_\_\_\_  
\_\_\_\_\_
  33. List violations committed by an out-of-state violator that the court may not report under the *Nonresident Violator Compact*. \_\_\_\_\_
  34. Why should clerks report an out-of-state violator as soon as they fail to appear or fail to pay? \_\_\_\_\_  
\_\_\_\_\_
  35. When a court grants deferred disposition to a defendant charged with a traffic offense, what does the court report to DPS? \_\_\_\_\_
  36. What happens if a defendant appeals his or her traffic conviction? \_\_\_\_\_  
\_\_\_\_\_
  37. When a defendant convicted of a traffic offense is granted a new trial, when does a court report a conviction? \_\_\_\_\_

## PART 2

### REPORTS TO THE TEXAS ALCOHOLIC BEVERAGE COMMISSION

Section 106.116 of the Alcoholic Beverage Code requires courts to furnish upon request a notice of conviction of Alcoholic Beverage Code offenses to the Texas Alcoholic Beverage Commission. The report must be in the form approved by the Texas Alcoholic Beverage



Commission. If the TABC wants to obtain information from a court, it will send a request to the court with a copy of the form on which to submit the information. These offenses include:

- Purchase of Alcohol by a Minor (Sec. 106.02);
- Attempt to Purchase Alcohol by a Minor (Sec. 106.025);
- Consumption of Alcohol by a Minor (Sec. 106.04);
- Driving Under the Influence of Alcohol by a Minor (Sec. 106.041);
- Possession of Alcohol by a Minor (Sec. 106.05); and
- Misrepresentation of Age by a Minor (Sec. 106.07).

### **PART 3**

#### **REPORTS TO THE TEXAS PARKS AND WILDLIFE DEPARTMENT**

The Parks and Wildlife Code contains dozens of offenses that are punishable as a Class C Parks and Wildlife Code misdemeanor, punishable by a fine of not less than \$25 and not more than \$500. Although not expressly mentioned in the Parks and Wildlife Code, municipal courts would have jurisdiction over these offenses, provided they are committed in the city's territorial limits. In addition, courts should be cautious not to confuse the Class C misdemeanor defined in the Penal Code (12.23, P.C.; a fine up to \$500) with the Class C Parks and Wildlife Code misdemeanor (12.406, P.W.C.; a fine from \$25 - \$500).

Section 12.107 of the Parks and Wildlife Code requires a justice of the peace, clerk of any court, or any other officer of the state who receives a fine imposed by a court for a violation of the code to send the fine to the Parks and Wildlife Department within 10 days after the date of collection. Section 12.107(b) provides that in county courts, 80% of the fine must be remitted, while in justice courts, 85% of the fine must be remitted. Presumably, municipal courts would remit 85% as well, but it is important to note that municipal courts are not specifically listed in the statute. Additionally, a statement must accompany the fine containing the docket number of the case, the name of the person fined, and the section of the code or regulation violated.

#### **Practice Note**

Should a percentage of what was once called the deferred disposition "special expense fee" be remitted for Parks and Wildlife offenses where the defendant is placed on deferred disposition? The Attorney General considered this issue in Attorney General Opinion GA-0745 in 2009. In that opinion, the Attorney General said no, stating that "it does not apply to all fees and costs that may be collected in a criminal proceeding...the special expense fee is not a fine." The issue has not been addressed more recently, though, in light of the 86th Legislature renaming the special expense fee as a fine in 2019.

## PART 4

### REPORT TO THE OFFICE OF COURT ADMINISTRATION



The Office of Court Administration (OCA) is a state agency established in 1977 under the direction and supervision of the Texas Supreme Court. Its mission is to provide administrative assistance and technical support to all of the courts in Texas. The Texas Supreme Court appoints the Administrative Director of OCA who also serves as the Executive Director of the Texas Judicial Council.

The Texas Judicial Council is composed of 16 ex officio and six appointed members and is the policy-making body for the state judiciary. The Council uses the information reported by the courts to the OCA to study methods to simplify judicial procedures, expedite court business, and better administer justice. It examines the work accomplished by the courts and submits recommendations for improvement of the system to the Legislature, the Governor, and the Supreme Court. There are two primary OCA reports: (1) Monthly Court Activity Report; (2) Appointments and Fees Monthly Report.

#### **A. Notification of City Appointments and Elections**

The city secretary is required to notify the Texas Judicial Council of the name of each person who is elected or appointed as mayor, municipal judge, and clerk of municipal court within 30 days after the date of the person's election or appointment. Sec. 29.013, G.C. The city secretary must also notify the Texas Judicial Council of any vacancies in those offices within 30 days.

#### **B. Judicial Council Monthly Court Activity Report**

It is a duty of each judge, clerk, or other court official to report statistical information pertaining to the business transacted in the court to OCA. If an official fails to submit the report, OCA may request the information from the official. If, after a reasonable amount of time, the official does not supply the information, he or she is presumed to have willfully refused the request. Sec. 71.035, G.C. The Attorney General may file and prosecute an action for mandamus on behalf of the Texas Judicial Council. A writ of mandamus is an order from a court of superior jurisdiction compelling the lower court judge or clerk to perform a particular act that he or she has a duty to do. In this instance, the writ would order the court to submit the monthly report. All courts, except the Supreme Court and the Court of Criminal Appeals, must submit a monthly report.

##### **1. Time Requirement**

Municipal courts must submit to OCA the court activity report for each month by the 20th day following the end of the month being reported. Secs. 171.1 and 171.2, T.A.C. This means that the report for the month of February, for example, would be submitted to the OCA by March 20. Although the judge is tasked with this report, it is typically a duty delegated to the court clerk in many municipal courts.

#### **Rule §171.2, T.A.C.**

The Monthly Court Activity Report is due no later than 20 days following the end of the month reported.

## 2. Monthly Report Form

Courts use the form provided by OCA to report the activity of the court every one-month period. The report requires the court to identify the name of the municipality, presiding judge, and court clerk along with the mailing address of the court and the name and office telephone number of the person who actually prepares the report. For copies of the report and reporting guidelines, contact OCA.

## 3. Form of the Report

The report does not require the court to report every activity but is designed to report information on the primary activity of the court as defined by OCA. If a court does not have any activity in a section of the monthly report, the court must still report and show “zero” activity. Although the form is periodically updated, the last substantial revisions to the form were implemented in September 2011.

## C. Appointments and Fees Monthly Report

Every municipal court in Texas is also required to submit a second report to OCA. This report, the Appointments and Fees Monthly Report, is due on a different date than the Monthly Court Activity Report. For this reason, it is important for clerks to pay close attention to OCA reporting deadlines.

### 1. Time Requirement

Municipal courts must submit to OCA the Appointments and Fees Monthly Report for each month by the 15th day following the end of the month being reported. Sec. 171.9, T.A.C. This means that the report for February, for example, would be submitted to the OCA by March 15. Note that this is five days earlier than the date that the Monthly Court Activity Report is due. Although the two reports appear to be linked to the same database, the requirements of the law require that each is submitted separately to the OCA.

#### **Rule §171.9, T.A.C.**

The Appointments and Fees Monthly Report is due no later than 15 days following the end of the month reported.

### 2. Appointed Attorneys

As discussed in Chapter 5, Trial Process and Procedure, there is generally no right under current law to have an attorney appointed in a fine-only misdemeanor case heard in municipal court. Remember that it is possible, however, to have an attorney appointed if the court concludes that the interests of justice require representation. Art. 1.051(c), C.C.P. This exception notwithstanding, the majority of municipal courts generally do not appoint attorneys. In addition, this report specifically asks about attorney ad litem appointments. The number for most municipal courts will thus likely be zero appointments. Regardless, the municipal court is still legally obligated to submit the report. Sec. 36.004, G.C.

### Practice Note

Understanding the many fields and queries of the “OCA Report” can be a daunting task for court clerks. For this reason, an hour-long class is provided to new clerks at the New Clerks Conference offered twice a year by TMCEC. Representatives from OCA provide step by step guidance on the report during the class. An archived webinar presentation on the report is also available through the TMCEC Register Site, located at [register.tmcec.com](http://register.tmcec.com). In addition, the OCA maintains a number of valuable resources on the training portion of their website at <http://www.txcourts.gov/reporting-to-oca/judicial-council-trial-court-activity-reports/justice-municipal-court-reports/>.

38. What is the Office of Court Administration (OCA)? \_\_\_\_\_  
\_\_\_\_\_
39. List the names of offices that the city secretary is required to report to the Texas Judicial Council when a person is either elected or appointed to office. \_\_\_\_\_  
\_\_\_\_\_
40. How long does the city secretary have to make the report? \_\_\_\_\_  
\_\_\_\_\_
41. When is a person presumed to have willfully refused to supply information to the Office of Court Administration? \_\_\_\_\_
42. How is the duty to supply information to the Office of Court Administration enforced?  
\_\_\_\_\_
43. Which courts are not required to submit monthly statistical reports to OCA? \_\_\_\_\_  
\_\_\_\_\_
44. How often is court activity reported to OCA? \_\_\_\_\_
45. What identifying information must the court place on the form? \_\_\_\_\_  
\_\_\_\_\_
46. How often are appointments and fees reported to OCA? \_\_\_\_\_
47. What are the two reports that municipal courts must submit to OCA? \_\_\_\_\_  
\_\_\_\_\_
48. If the court has no activity, how does the court report that fact? \_\_\_\_\_  
\_\_\_\_\_

## PART 5 REPORTS TO STATE COMPTROLLER OF PUBLIC ACCOUNTS



The Texas Comptroller is the state’s chief financial officer, elected by popular vote every four years. The Comptroller is required by Article III, Section 49a of the Texas Constitution to certify the state’s budget and revenues to the Legislature. In addition, the Comptroller’s office is tasked with financial

management of the court costs, fees, and some fines collected by the state’s courts. In other words, the Comptroller of Public Accounts is tantamount to an accountant for the State of Texas.

Broadly speaking, state law mandates that courts collect, report, and remit costs and fees to the Comptroller. Court costs are generally collected when a judgment and sentence are imposed on the defendant, when the defendant receives deferred disposition, or when the court formally defers final disposition of the case or imposition of the judgment and sentence. Sec. 133.101, L.G.C. This is documented through a required report that the court must transmit to the Comptroller once every quarter. Some of the costs and fees are retained by the city, some are required to be remitted to the State, and some are split by percentage depending on the specific statutory authorization.

It is important to clearly understand the statutory authority for every cost and fee ordered and collected in court. Courts may not impose a cost that is not expressly authorized by law. Art. 103.002, C.C.P. Funds that are collected without authority are considered by the State to be unjust enrichment. The statutory authority for the collection of costs is found in various state laws. These laws either directly authorize collection of the costs, or specifically allow the city to adopt an ordinance for the collection of the costs. Without this specific authority, cities cannot impose or collect costs through a municipal ordinance. Art. 45.203(d), C.C.P. Additionally, some court costs, and even fines, have specific uses outlined in the law. This means that the city or state can only use those costs or fines, once collected, for the specific use authorized. This section will provide an overview of these and related issues below.

## A. General Information

### 1. What are Court Costs?

Historically, court costs have been understood as separate from the fine. Court costs are reported to the State, which takes the majority of the amount collected, and the fine is kept by the city. This understanding has changed somewhat following changes by the 86th Legislature as to what is labeled as a court cost and what is labeled as a fine in the law. A general understanding of the difference between a court cost and fine, though, can be found in existing case law. In general terms, notwithstanding issues raised by the recent changes, fines are meant to be a punishment for the criminal offense and court costs are meant to recoup costs expended in the trial of the case. *Weir v. State*, 278 S.W.3d 364 (Tex. Crim. App. 2009). Later cases further explored this concept, with courts closely examining how the cost is used after collection. The Court of Criminal Appeals decided, six years after *Weir*, that for a court cost to pass constitutional muster, it must also be used for a “legitimate criminal justice purpose.” *Peraza v. State*, 467 S.W.3d 508 (Tex. Crim. App. 2015). The Court of Criminal Appeals has decided that the question of what constitutes a “legitimate criminal justice purpose” should be decided on a case-by-case basis. The result of this is that our understanding of court costs may be continually evolving. What is clear, however, is that until the Court of Criminal Appeals or the Texas Legislature have given courts guidance, court clerks must assess court costs as dictated by current law.

***Weir v. State*,  
278 S.W.3d 364 (Tex.  
Crim. App. 2009)**

Court costs are not fines, but are a “non-punitive recoupment of the costs of judicial resources expended in connection with the trial of the case.”

## 2. Assessing Court Costs

### Meaning of Conviction

133.101, LGC

- Judgment and sentence imposed
- Deferred disposition ordered
- Court defers final disposition or imposition of judgment and sentence

A defendant will be assessed court costs and potentially a fine within the range prescribed by law upon conviction in municipal court. The definition of conviction for purposes of costs may be confusing, and perhaps counter-intuitive, however, for new clerks. As discussed in the law chapter, certain court orders and forms of probation may lead to a dismissal of a case. This would lead clerks to believe that court costs are not collected, as there is no final conviction. It is important to note that in the law some terms may have multiple, sometimes contrasting, definitions. The application of the

specific definition will be dependent on what it is being applied to and what the law says. In this case, the definition of conviction when assessing court costs is much broader than what is considered a final conviction when looking at a criminal record. Section 133.101 of the Local Government Code defines conviction when assessing court costs as when a judgment, a sentence, or both a judgment and a sentence are imposed on the defendant; the person receives community supervision, deferred adjudication, or deferred disposition; or the court defers final disposition of the case or imposition of the judgment and sentence. This means that court costs are collected on conviction as defined in the law even when there is not a final conviction for purposes of a criminal record. Practical examples of this include the costs collected on taking a driving safety course and the costs collected on an order of deferred disposition. Successful completion of either of these types of probation results in a dismissal with no final conviction appearing on a person's record. Court costs are still collected, however, when going back to the definition provided by the Local Government Code. Deferred disposition falls under the second bullet in the graphic to left; driving safety could fall under the third bullet. A close reading of the statute is important, though, so as not to apply court costs too broadly and beyond the express meaning of the Local Government Code definition. A final conviction might also be practically deferred in other instances, such as at pre-trial or when the prosecutor eventually moves for dismissal pursuant to a plea agreement; but these are not listed in the statute when assessing costs, and collection of court costs would not be appropriate. Likewise, mechanisms such as prosecutor "pre-trial diversion" are also not mentioned with regard to municipal court costs. Therefore, no costs are authorized in those instances.

## 3. Effective Date of New Court Costs

Court costs are subject to change each legislative session. Changes generally apply to offenses that occur on or after the date that the changes go into effect. According to Section 51.607 of the Government Code, notwithstanding the effective date of a legislative act, new court costs and fees are effective for offenses committed on or after January 1st following the date of the new law's effective date. This rule, however, does not apply to a court cost or fee if the legislative act takes effect on or after the January 1st following the regular legislative session that enacted the new cost or fee. Courts must keep court costs charts from prior years in order to know the correct amount to collect for past offenses. County and district courts, however, have express direction to calculate costs based on the costs in effect on the date of conviction.

### Practice Note

Section 51.608 of the Government Code provides that in criminal cases, county and district courts assess the court costs that are in effect at the time of the conviction. Municipal and justice courts were specifically pulled from bill that created this statute prior to it becoming law in 2013. This sets up a potential scenario where a defendant could be assessed different court costs on the same case following legislative years, depending on whether the person decides to appeal. The costs in municipal court would be based on the offense date for the case, while the conviction in county court would be based on the conviction date. If the court costs have gone up, the person would pay the new, and likely higher, court costs.

## 4. Interest and Fee Retention

If reported timely, the city may keep the interest as well as a portion of the applicable fee as a service fee. The portion that the city may retain is generally 10 percent of any collected fee if it is timely reported to the Comptroller. Sec. 133.058, L.G.C. This is a general statute that would govern any fee that does not explicitly provide for a service fee. Consequently, the service fee for the State Consolidated Fee, for example, is 10 percent. In practical terms, this means that the city would keep 10 percent of the fee collected from the defendant, and then send the remainder to the Comptroller. In other cases, the portion retained may depend on a specific statute. The service fee for the State Traffic Fine, for example, is 4 percent. Why this specific amount? It is explicitly authorized in the State Traffic Fine statute, Section 542.4031(f) of the Transportation Code.

The Local Government Code also authorizes cities to maintain certain court costs and fees in an interest-bearing account. Sec. 133.053, L.G.C. If a city fails to report timely, though, the city must remit the entire 100 percent of the court costs collected, including handling fees and interest accrued, to the Comptroller. Sec. 133.055, L.G.C. Courts are not required to have a separate bank account for court costs, but separate records must be kept of collected funds. Costs with dedicated funds or statutory use requirements cannot be co-mingled with the city's general revenue.

## 5. Reporting

Court cost reports for the preceding quarter must be transmitted to the Comptroller by the last day of the month following each calendar quarter. Sec. 133.056(a), L.G.C. Similar to the OCA Monthly Activity Report mentioned in the prior section, a report must still be sent even if nothing was collected. If the treasurer does not collect any fees during a calendar quarter, the treasurer still files a report in the regular manner and then reports that no

### Art. 45.203(d), C.C.P.

City councils do not have general authority to impose or collect costs in criminal cases by municipal ordinance.

fees were collected. Sec. 133.055(b), L.G.C. For fees collected for convictions of offenses committed on or after January 1, 2004, a municipality or county shall report the fees collected for a calendar quarter categorized according to the class of offense. Sec. 133.056(b), L.G.C.

## 6. Partial Payments: Allocation and Proration

As discussed in Chapter 6, Texas law has long provided for installment payments when a defendant is unable to immediately pay the costs and fine assessed in a case. When the judge orders a defendant to pay fines and court costs through an installment plan, though, clerks must ensure proper reporting and remittance of the court costs and fees. The Comptroller follows a rule that requires courts to allocate money collected first to court costs and fees, and then to the fine. This rule, called the “Costs-First Allocation Rule” states that where a defendant pays only part of the required costs, fees, and fine ordered, the money collected should go first to the payment of the costs and fees, then second to the fine amount once costs have been paid. This concept was first stated in an Attorney General Opinion by Texas Attorney General Gerald Mann in 1939. Texas Attorney General Opinion No. O-755 (1939). In the opinion, the Attorney General lays out the principle that costs are paid first and if insufficient money is collected to even cover the costs, then the amount collected is allocated *pro rata*, or pro-rated, with no one cost taking precedence over another. *Pro rata* is a Latin term meaning in proportion, so this means that the money collected would be allocated in equal portions to the remaining costs. An example of the mathematical formula to accomplish this is below.

### Costs-First Allocation Rule

“Where a defendant pays only part of the required fines and costs, the money collected should go first to the payment of the costs and the balance, if any, to the amount of the fine.”

More recently, an opinion from 2004 reaffirmed this process, indicating that it was the Texas Attorney General’s opinion for “over sixty years” addressed in six different opinions during that time. Texas Attorney General Opinion No. GA-0147 (2004). It is noteworthy, however, that the “Costs-First Allocation Rule” is simply a long-standing administrative construction of the law by the Texas Attorney General and the Comptroller. This has weight under the law, but there are no statutes or cases specifically discussing the rule.

Thus, in practice, when a court collects all costs owed during one quarter even though they were paid through installments, the clerk reports all the costs on that quarter’s report. If the court collects only part of the costs in a reporting quarter, the court then prorates the costs collected among all the court costs and reports the State’s portion on the quarterly report. Remember, if the court does not report, the city may not retain any percentage of the fees.

To prorate, use the following formula:

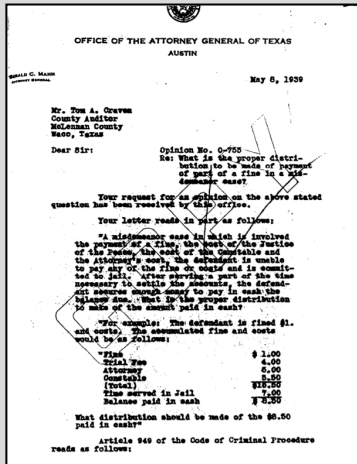
$$\frac{\text{Amount collected}}{\text{Total costs/fees}} = \text{Percentage to apply to each cost/fee}$$

For example, a defendant convicted of the offense of speeding is assessed a fine of \$175 and court costs of \$129.00, but only pays \$46.00.

$$\frac{\$46.00}{\$129.00} = 50\% \text{ to each cost/fee}$$



## Practice Note



Texas Attorney General Opinion No. O-755, seen to the left, first laid out the Costs-First Allocation Rule in 1939. The Rule has been addressed six times in the last 80 years, which shows that debating court costs issues is not unique to 21st Century courts. Another similarity to today? A case where the court costs exceeded the amount of the fine assessed by the court. In the 1939 opinion, the costs at issue totaled \$15.50. The fine? Just \$1.00.

## 7. Costs When Satisfied Though Other Alternatives

Other alternatives that would satisfy an outstanding judgment are court orders for community service, jail credit, or even waiver of the costs and fine entirely. If a defendant discharges the total amount due to satisfy the judgment under one of these alternatives, the court does not have to remit to the Comptroller the money that it did not actually collect. If the defendant discharges only part of the total amount due through an alternative mean and pays money for part of the remaining judgment, the allocation still follows the proration described above.

### Art. 45.048(a)(2), C.C.P.

The rate of jail-time credit is not less than \$150 per eight hours of time served in jail as specified in the judgment.

As custodians of the records, court clerks are responsible for properly recording community service, jail credit, or waiver of the costs, fees, and fine. If a defendant does not pay any money to the court because the defendant had sufficient jail-time credit for both fine and court costs, for example, the Comptroller does not require the court to remit court costs that were not collected in money. It is important that the credit is documented and specified in the judgment or order. This provides a written record

documenting what was ordered and clearly indicates in the court case file why no actual money was collected.

Similarly, if the judge waives all or part of the outstanding court costs, fees, or fine, the court should document this finding in a written order. Remember, waiver of the fine or costs is possible through parameters outlined in Article 45.0491 of the Code of Criminal Procedure. This statute permits the judge to waive all or part of a fine or costs imposed on a defendant if the judge makes certain determinations provided by the statute. This can not only affect reporting to the Comptroller but is also required to be documented for reporting to the Office of Court Administration.

## 8. Deferred Disposition, Driving Safety Course, and Teen Court Costs

Court costs are assessed when deferred disposition or a driving safety course are ordered. When deferred disposition is ordered by the judge under Article 45.051 of the Code of Criminal Procedure, the judge may allow a defendant to enter into an agreement for payment of court costs in installments during the defendant's period of probation, require the defendant to discharge the payment of the court costs by performing community service, or require both payment of the court costs in installments and performance of community service. Art. 45.051(a-1), C.C.P. When a mandatory driving safety course is ordered, the court collects costs and may assess a non-refundable reimbursement fee not to exceed \$10. Art. 45.0511(f), C.C.P. If a discretionary driving safety course is granted under Subsection (d) of Article 45.0511, in addition to costs, the court may collect, under Subsection (f)(2) of 45.0511, a fine not to exceed the maximum possible amount of the fine that could have been imposed. If the defendant complies in either case, then the court dismisses the case.

### a. Using State Electronic Internet Portal to Obtain Driving Record for DSC

Article 45.0511(c-1) of the Code of Criminal Procedure provides that the court may request that DPS send the judge a copy of the defendant's driving record through the state's electronic internet portal showing the information required by the driving safety course order. If the court does this, then it may assess a reimbursement fee at the time that the defendant requests the driving safety course. This fee, established by Section 521.048 of the Transportation Code, would be in addition to the reimbursement fee charged when granting the driving safety course. If the court collects the fee, the court must send the money to the Comptroller quarterly. The Comptroller then credits the money to DPS.

#### **Sec. 521.048, T.C.**

The Department of Public Safety may disclose information relating to the driving record of a license holder on payment of a \$10 fee for each individual request.

### b. Teen Court Reimbursement Fees and Exemption

There are two optional \$10 reimbursement fees that may be imposed upon a defendant's request for a teen court program. The first reimbursement fee, which may be an amount up to \$10, is set by the court to cover the costs of administering the teen court program. It is deposited in the municipal treasury. Art. 45.052(e), C.C.P. The second reimbursement fee, which is set at exactly \$10, is to cover the cost to the teen court for performing its duties. This reimbursement fee is paid by the court to the teen court program. The teen court must then account to the court for the receipt and disbursement of the reimbursement fee. Art. 45.052(g), C.C.P. Neither reimbursement fee is refundable if the defendant does not successfully complete the teen court program.

If the court is located in a county on the Texas-Louisiana border, it may assess two \$20 reimbursement fees instead of the \$10 fees. The \$20 reimbursement fees apply to the counties of Bowie, Camp, Cass, Delta, Franklin, Gregg, Harrison, Hopkins, Lamar, Marion, Morris, Panola, Red River, Rusk, Smith, Titus, Upshur, and Wood. Sec. 2056.002, G.C.

Finally, the teen court statute also includes the unique authority to exempt teen court participants from court costs. If a defendant has his or her criminal proceedings deferred under the teen court program, the court may exempt the defendant from the requirement to pay a court cost or

reimbursement fee that is imposed by another statute. Art. 45.052(h), C.C.P. This is a different process from waiver, but the court should document any such exemption.

#### **Practice Note**

Efforts have been made in this book to provide an overview of court costs for educational purposes. This overview is not a comprehensive list that should be directly utilized in assessing court costs and fees. This is especially true when one considers the large court cost reorganizations by the Texas Legislature in 2003 and 2019 that repealed and replaced various costs. If the court does not have court costs charts for prior years, TMCEC, OCA, and the Comptroller maintain information on historical costs for certain years that may be useful:

##### **TMCEC Charts (1999-present)**

<http://tmcec.com/resources/charts/>

##### **OCA Charts (2011-2014)**

<http://www.txcourts.gov/publications-training/publications/filing-fees-courts-costs/criminal/>

##### **Comptroller Link to *Texas Register* (2007-present)**

<https://comptroller.texas.gov/economy/tools/court-fees.php>

## **9. Cash Bond Forfeiture for Fine and Costs**

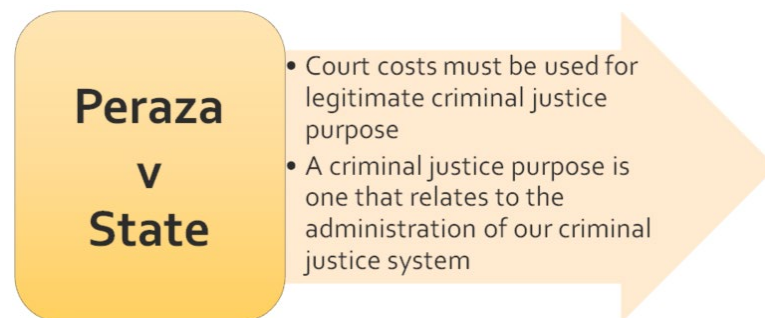
A judge may enter a judgment of conviction and forfeit a cash bond to satisfy a defendant's fine and costs if the defendant fails to appear. Article 45.044 of the Code of Criminal Procedure provides that this is possible if the defendant has entered a written and signed plea of no contest, waived a jury trial, and failed to appear according to the terms of the defendant's bond. Because there is a conviction, court costs would be paid to the State. The court must then immediately send notice to the defendant of the conviction, forfeiture, and right to apply for a new trial. Art. 45.044(b), C.C.P.

## **10. Court Costs on Appeal**

When a defendant files appeals from a non-record court, the municipal court does not collect court costs and report to the Comptroller. If the defendant is convicted in county court, the county court collects the costs and reports them. In a municipal court of record, if the county court affirms the judgment, the municipal court collects and reports the costs. Art. 44.281, C.C.P.

## B. State Court Costs and Fines

State court costs and fines in this section are those in which the majority are primarily sent to the State of Texas once assessed and collected. The city generally may retain a small percentage or a service fee for timely reporting to the Comptroller. In recent years, the question of what happens to the money once it is sent to the Comptroller has been subject to substantial litigation. For many years, following a case called *Ex Parte Carson*, courts would look at whether the cost was “necessary or incidental to the trial of a criminal case.” *Ex Parte Carson*, 159 S.W.2d 126 (Tex. Crim. App. 1942). This was specifically rejected, however, in a case called *Peraza* in 2015. In that case, the Court of Criminal Appeals considered the argument that collection and allocation of court costs in certain circumstances could essentially make courts tax gatherers (a role reserved for the Executive branch),

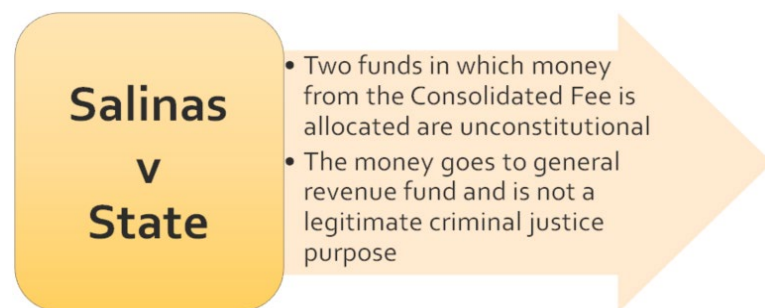


which would violate separation of powers. The Court of Criminal Appeals held that for a court cost to be held constitutional, it must be used for a legitimate criminal justice purpose. It further stated that a legitimate criminal justice purpose is one that relates to the administration of our criminal

justice system. *Peraza v State*, 467 S.W.3d 508, 518 (Tex. Crim. App. 2015). Consequently, it is important to be familiar with how certain court costs are allocated. Some are apportioned between the city and state, while others are divided between numerous funds or accounts with specific uses. Generally, courts will look to these specific uses in order to determine whether the court costs in constitutional.

### 1. State Consolidated Fee

The State Consolidated Fee is a \$62 court cost collected on conviction for fine-only misdemeanor offenses other than pedestrian or parking offenses. Sec. 133.102, L.G.C. If reported timely, the court is authorized to retain a 10 percent handling fee. The Comptroller allocates its portion of the State Consolidated Fee to 17 different accounts or funds based on percentages listed in the statute.



The allocation to these accounts or funds has been subject to litigation, with some being found unconstitutional under the standard laid out in *Peraza*. Most recently, in the *Salinas* case, the Court of Criminal Appeals found two accounts, the Comprehensive Rehabilitation Account and the

Abused Children’s Counseling Account, to be unconstitutional. The court found that neither account was used for a legitimate criminal justice purpose; in fact, one of the accounts ended up allocating the money into the state’s general revenue fund. *Salinas v. State*, 523 S.W.3d 103, 110 (Tex. Crim. App. 2017). The practical result of the case on the State Consolidated Fee was that the portion allocated to these two funds was invalidated. The legal result was that the Texas

Legislature then amended the State Consolidated Fee statute in 2017 and again in 2019 to address such issues. In 2019, the number of funds was increased and the individual apportionments to each fund all decreased, with the exception of the Fair Defense Account. The Fair Defense Account remains the biggest beneficiary of the post-*Salinas* legislative changes, with its percentage of the State Consolidated Fee going from 8.0143 percent in 2015 to 17.8448 percent in 2017 to 17.8857 percent in 2020. Currently, the largest accounts or funds that the Comptroller allocates the \$62 court cost to include the Compensation to Victims of Crime Account (24.6704%), Fair Defense Account (17.8857%), and the Judicial Fund (12.2667%).

## 2. State Traffic Fine

The State Traffic Fine is a \$50 court cost collected upon conviction of Subtitle C, Rules of the Road, Transportation Code offenses located in Chapters 541-600. This includes parking and pedestrian offenses. The city keeps a four percent handling fee if it is reported and remitted timely to the Comptroller. Sec. 542.4031, T.C. Interestingly, the Comptroller allocates its portion to the state’s general revenue fund (70%) and the Designated Trauma Facility and Emergency Services Account under Section 780.003 of the Health and Safety Code (30%).

### Practice Note

Keep the change? From January 1, 2010 to September 28, 2011, courts collected a 15 cent Child Safety Seat Court Cost on convictions for child safety seat offenses. The purpose of the cost was to fund the purchase of child safety seats for needy families. The cost was repealed effective September 28, 2011. A similar cost, the 10 cent Moving Violation Fee was imposed on all moving violations from September 1, 2009 to December 31, 2019. Cities kept 10 percent and the rest went to the state. It was also repealed effective December 31, 2019, leaving the remaining court costs as even dollar amounts.

49. May a city pass an ordinance to collect court costs without authorization by state law?

50. For the purpose of collecting court costs, how is “conviction” defined?

51. When must a city submit a report on court costs to the State?

52. If the city keeps the court costs in an interest-bearing account, what happens to the interest?

53. If the city does not report timely, what happens to the fee that a city may retain?

54. Even if the court deposits court costs into the city treasury, what type of records is the

court required to keep? \_\_\_\_\_

True or False

55. When the court collects only part of the fine and costs, the clerk may allocate all of the money to the fine. \_\_\_\_\_
56. Courts may choose to wait until all court costs are collected before remitting them to the State. \_\_\_\_\_
57. When a court prorates court costs and fees, the costs and fees owed to the State must be paid before the costs and fees retained by the city. \_\_\_\_\_
58. If a defendant discharges a fine and costs by community service, the city must pay the court costs from the city's general revenue fund. \_\_\_\_\_
59. A defendant cannot discharge court costs by jail credit. \_\_\_\_\_
60. Courts may grant deferred disposition and allow defendants to pay court costs during the deferral. \_\_\_\_\_
61. If a defendant is granted a driving safety course, the defendant must pay court costs. \_\_\_\_\_
62. When a case is appealed, must the court collect the court costs? \_\_\_\_\_
63. When the Legislature changes court costs, when do the changes apply? \_\_\_\_\_
64. What must a city do if its court does not collect any court costs or fees during a calendar quarter? \_\_\_\_\_

True or False

65. The State Consolidated Fee is collected on all Class C misdemeanor convictions. \_\_\_\_\_
66. The court keeps a 10 percent handling fee on the Consolidated Fee if remitted and reported timely. \_\_\_\_\_
67. The State Traffic Fine is collected on all traffic convictions. \_\_\_\_\_
68. The court keeps a 5 percent handling fee on the State Traffic Fine. \_\_\_\_\_

## PART 6 LOCAL COURT COSTS AND FINES

### A. Court Costs and Fines Retained by the City

State court costs and fines in this section are those in which the majority, if not all, of the amounts are primarily retained by the city once assessed and collected. These are sometimes referred to as local court costs. Although the city retains the amounts, however, it is important to note that the city cannot necessarily expend the costs and fines on any use. Similar to the state court costs reported to the Comptroller in the previous section, the local court costs generally will have specific authorized uses in the authorizing statute or allocations broken down by fund or account. The amounts collected may only be expended on those specific statutory uses.

#### 1. Local Consolidated Fee

The Local Consolidated Fee is a \$14 court cost collected on conviction for a misdemeanor offense, including a criminal violation of a municipal ordinance. Sec. 134.103, L.G.C. On its

surface, the \$14 Local Consolidated Fee appears to be a smaller version of the \$62 State Consolidated Fee. In some ways, this is true. The court assesses a single dollar amount that is then allocated to various funds by percentages outlined in Chapter 134 of the Local Government Code. The difference between the Local and State Consolidated Fee, however, is that the Comptroller is not the one responsible for the correct division, allocation, and legal maintenance of the funds. Rather, it is solely the responsibility of the municipality.

Chapter 134 provides for four funds into which the fee is allocated. Some of these funds previously existed as separate court costs that required specific city ordinances to collect prior to legislative changes effective on January 1, 2020. It is possible that, for an offense committed prior to January 1, 2020, courts will need to refer to the old costs. The Local Consolidated Fee funds for offenses committed on or after January 1, 2020 are summarized in the table below along with the statutory percentage and dollar amount. Following the table, the individual funds are further discussed.

<b>Local Consolidated Fee (\$14)</b>		
Fund	Percent	Dollar
Municipal Court Building Security Fund	35	\$4.90
Municipal Court Technology Fund	28.5714	\$4.00
Local Truancy Prevention and Diversion Fund	35.7143	\$5.00
Municipal Jury Fund	.7143	\$0.10

**a. Building Security Fund**

The Building Security Fund is required by statute to be administered by or under the direction of the governing body of the city. The fund has specific prescribed uses, however, that will directly impact security in the municipal court. The law provides that the fee may only be used for security personnel, services, and items related to buildings that house the operations of municipal courts. The administrator of the fund will need to carefully weigh whether an expense falls within this statutory definition of permissible uses. To aid in this determination, the statute includes a non-exhaustive list of examples. These permissible uses include the purchase or repair of x-ray machines and conveying systems, handheld and walkthrough metal detectors, bailiffs or security personnel when they are providing security services, bullet-proof glass, and more. The entire list may be found in Article 102.017(d-1) of the Code of Criminal Procedure.

**Practice Note**

Another permitted use of the Building Security Fund that is listed in Article 102.017 of the Code of Criminal Procedure is “continuing education on security issues for court personnel and security personnel.” Court administrators in particular should pay attention to this provision: TMCEC regularly provides classes and entire conferences on court security. Thus, a court could potentially use the fund to pay the cost of sending court personnel to TMCEC seminars or other continuing education programs.

## **b. Technology Fund**

Similar to the Building Security Fund, the Technology Fund has specific uses that are listed in its authorizing statute, Article 102.0172 of the Code of Criminal Procedure. Money allocated to this fund may only be used to finance the purchase of or to maintain technological enhancements for a municipal court. A non-exhaustive list provides further examples and is included in the statute. These permissible uses include municipal court technology such as computer systems, computer software, imaging systems, electronic kiosks, electronic ticket writers, and more. The entire non-exhaustive list is found in Article 102.0172(d) of the Code of Criminal Procedure.

### **Practice Note**

The Technology Fund and the Building Security Fund statutes both existed in a different form prior to recent legislative changes. It is important to note that today the two funds are not separate costs; rather, they are funds that are allocated from the Local Consolidated Fee, which is required to be assessed under state law for offenses on or after January 1, 2020. For offenses prior to this date, only cities that had passed ordinances authorizing each fund could assess them, but as a separate, stand-alone court cost.

## **c. Local Truancy Prevention and Diversion Fund**

The Local Truancy Prevention and Diversion Fund is primarily used to finance the position of juvenile case manager. The juvenile case manager, colloquially known as a JCM, is a relatively recent addition to the list of municipal court personnel. The position, which did not exist prior to 2001, was originally called “Truancy Case Manager.” The juvenile case manager is authorized in Article 45.056 of the Code of Criminal Procedure, which allows the juvenile case manager to assist the court in administering the juvenile docket. This means that the juvenile case manager is akin to a court clerk that specializes in assisting the court with juveniles. For courts with significant juvenile cases, the Local Truancy Prevention and Diversion Fund would be a useful means to fund this position.

This fund replaces a previous court cost, called the Juvenile Case Manager Fee, which essentially served the same purpose. That cost, however, was not state-mandated and required a city ordinance to collect. This fee was repealed effective January 1, 2020. The Local Truancy Prevention and Diversion Fund is a required allocation as part of the state-mandated Local Consolidated Fee. This means that every court must assess the fee, regardless of juvenile case volume or whether the court has a juvenile case manager at all. Additionally, more than a third of the Local Consolidated Fee is allocated by statute into this fund, so it is important to know how—and if—it may be used by the city.

Section 134.156 of the Local Government Code provides that the \$5 allocated to the Local Truancy Prevention and Diversion Fund may only be used to finance the salary, benefits, training, travel expenses, office supplies, and other necessary expenses relating to the juvenile case manager position. If there is money left in the fund after these uses, the juvenile case manager may direct money to programs directly related to the juvenile case manager’s duties.



This is subject to the direction of the city and the approval of the court. Examples of potential uses are listed in the statute and include uses such as juvenile alcohol abuse programs. It is important to note that the statute also prohibits the money from being used for any other employee whose primary role is not juvenile case manager. This greatly limits its utility to courts without a juvenile case manager or juvenile cases. Nonetheless, it is a required state fee. This means that some courts will collect the fee but be unable to use it unless the law is amended at some point. As with any court use of fees collected from defendants, receipt and use should be well documented.

Finally, the Local Truancy Prevention and Diversion Fund should not be confused with the Truancy Prevention and Diversion *Account*. The latter is an account into which the Comptroller allocates roughly two and a half percent of the State Consolidated Fee. Despite the similar name, these are two entirely separate pools of money.

The Truancy Prevention and Diversion Account is a dedicated account within the state’s general revenue fund and is used by the legislature for truancy prevention and intervention services. Section 133.125 of the Local Government Code provides that a local government may request those funds from the criminal justice division of the governor’s office. Short of this, the local government would not otherwise have access to the Account’s funds.



**Practice Note**

Confused? As stated, this fund is not the only one that addresses juvenile issues, or even the only with the name “local truancy prevention and diversion.” To further complicate things, the Truancy Prevention and Diversion *Account* was formerly named the Truancy Prevention and Diversion *Fund* under old law prior to January 1, 2020. In addition, the Local Truancy Prevention and Diversion Fund mirrors verbatim the language of the former Juvenile Case Manager Fee, which was repealed for offenses on or after January 1, 2020.

**d. Juror Fund**

The new Municipal Jury Fund in Section 134.154 of the Local Government Code may be used to fund juror reimbursements or finance jury services. As with other funds within the Local

Consolidated Fee, this fund should not be confused with the similarly named Jury Service Fund within the State Consolidated Fee.

## **2. Fees and Fine Assessed on Nonappearance**

There are certain court costs, and one fine, that may only be assessed upon the nonappearance of a defendant in some manner. These each have different requirements beyond the nonappearance, which are described further below.

### **a. Warrant Reimbursement Fee**

Article 102.011(a)(2) of the Code of Criminal Procedure requires a \$50 warrant reimbursement fee be collected upon conviction if an arrest warrant, *capias*, or *capias pro fine* is executed or processed by a peace officer. A warrant, *capias*, or *capias pro fine* is executed if the officer serves the warrant by arresting the defendant. The statute does not define what processing means, so it will ultimately be up to the judge to decide what he or she considers as processing if the warrant has not been served. Some processes that a peace officer might conduct prior to serving a warrant are telephone calls to the defendant, courtesy letters, or entering the warrant into the local police department computer. Regardless of what the judge accepts as processing, documentation of the processing by a peace officer must be provided to the judge before he or she may assess the fee.

If a law enforcement agency other than the agency of the court's jurisdiction that processed the arrest warrant, *capias*, or *capias pro fine* executes it, and there is a conviction, then that agency may request the \$50 fee. The request must be made within 15 days after the arrest. Art. 102.011(a)(2)(A), C.C.P. If that agency fails to request the fee, it is still required to be collected, but is paid into the issuing city's treasury. In addition, if a peace officer employed by the state executes or processes the warrant, fees imposed must be forwarded to the comptroller the last day of the month following the quarter in which it was collected after deducting four-fifths of the amount of each fee. Sec. 133.104, L.G.C. The statute does not require that this fee be used for any specific purpose.

#### **Practice Note**

A Texas Attorney General Opinion from the 1980's sheds some light on the issue of warrant fees and officer compensation. Attorney General Opinion JM-462 (1986) states that the police may legally serve arrest warrants outside of their regular hours but may only receive overtime as compensation for this service. In addition, the officer may not receive the actual fee as compensation for the service of a warrant. The Attorney General points out that the fee must be paid directly to the city treasury, and it may not serve as compensation to an officer for performance of his or her official duty.

**b. Fail to Appear/Violate Promise to Appear Fine by Ordinance**

This \$25 fine is authorized under Article 45.203 of the Code of Criminal Procedure if the city has passed an ordinance. The fine may only be collected for the criminal offenses of failure to appear (FTA) under Section 38.10 of the Penal Code and violate promise to appear (VPTA) under Section 543.009 of the Transportation Code. Remember that these offenses, discussed at greater length in Chapter 4 (Charging and Pre-Trial), are criminal charges for failing to appear on an underlying offense, and are filed separately from the original criminal charge depending on the prosecutor. Additionally, this \$25 fine should be understood as separate and distinct from the statutory fine ranges provided for FTA in the Penal Code and VPTA in the Transportation Code. Article 45.203(c) simply states that a fine not to exceed \$25 may be prescribed for these two offenses if the city has passed an ordinance. Prior to January 1, 2020, the law required that the \$25 be assessed on a warrant for these two offenses. That language was struck from the current version. This means that if the prosecutor decided to file a violate promise to appear charge on an underlying speeding case, for example, it appears that the maximum fine possible under the Transportation Code would be \$200, but if the city has an ordinance, an additional \$25 fine could also be assessed.

**c. Failure to Appear for Jury Trial**

A municipal court may order a defendant who does not waive a jury trial and fails to appear for trial to pay a reimbursement fee for the costs incurred for impaneling the jury. Art. 45.026, C.C.P. The court may release a defendant from the obligation to pay for good cause. If the court requires the defendant to pay the costs, the statute also provides that the order may be enforced as contempt under Section 21.002(c) of the Government Code.

**Practice Note**

The amount of this cost will vary depending upon the costs incurred by the court. The legislature recently amended the statute to further clarify that this cost is a *reimbursement* fee, meaning that it is meant to reimburse the court for costs incurred in the trial of the case. One practice is for the clerk to do an analysis of the costs for summoning a jury and have it available for the judge so that the judge may more accurately assess the cost. Some possible costs include:

- cost of jury summons (paper and printing costs);
- cost of envelopes and stamps; and
- time spent preparing jury summons, handling requests for exemptions before trial, and managing the jury on the day of trial.

### 3. Fine for Child Safety Fund

#### a. Parking Offenses

If a parking offense is charged under a city ordinance in a city with a population greater than 850,000, the governing body shall require the assessment of a \$2 to \$5 fine upon conviction. If a parking offense is charged under a city ordinance in a city with a population fewer than 850,000, the court may collect a fine not to exceed \$5 upon conviction. Art. 102.014, C.C.P.

#### b. School-Crossing Zone

Article 102.014(c) of the Code of Criminal Procedure provides that the court must assess a \$25 fine for any offense under Subtitle C of the Transportation Code committed in a school-crossing zone.

An offense under Subtitle C of the Transportation Code is any offense found in the Rules of the Road located in Chapters 541-600, T.C. School crossing zone is defined in Section 541.302 of the Transportation Code. A school crossing zone is “a

reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies.” As the definition states, in order for the court to assess the \$25 fine for offenses committed in the school-crossing zone, the Subtitle C offense must have occurred during the time that the reduced speed limit is in effect.

#### **Sec. 541.302, T.C.**

School Crossing Zone means a reduced speed zone designated on a street by a local authority to facilitate safe crossing by children during the time the reduced speed applies.

#### c. Passing a School Bus

Article 102.014(c) also provides that the court is required to assess a \$25 fine for the offense of passing a school bus under Sec. 545.066, T.C.

#### d. Parental Offense

Article 102.014(d) provides that courts must collect a \$20 fine for a conviction of the offense of parent contributing to nonattendance under Section 25.093 of the Education Code. The related offense of failure to attend school was repealed in 2015, but parent contributing to nonattendance remains a criminal offense.

#### e. How Fund is Administered

Administration of the Child Safety Fund depends on the size of the city. There are also specific uses that the money may be used for that are outlined in the statute.

#### **Greater than 850,000**

If a city has a population greater than 850,000, it must deposit the money in the Municipal Child Safety Fund established in the treasury, for the purpose of providing school crossing guard services. Ch. 106, L.G.C. The city may contract with one or more school districts to provide school-crossing guard services and may also provide services to an area of the city that is not a part of the school district. The employment, training, equipping, and location of school crossing guards by a political subdivision are a government function. The city is required to determine the

number of school crossing guards needed by the city and then provide for the use of school crossing guards to facilitate the safe crossing of streets by children going to or leaving public, parochial, private, elementary, and secondary schools. The city must also consider the recommendations of schools and traffic safety experts when determining the need for school crossing guards. After contracting with a school district, the city may deduct from the fund the administrative cost of contracting for the services and distributing the funds to the school districts, but this may not exceed 10 percent of the fund. Ch. 343, L.G.C. After paying the expenses of the school crossing guard services, any remaining money in the fund may be used for programs designed to enhance child safety, health, or nutrition, including child abuse intervention and prevention, and drug and alcohol abuse prevention. Ch. 106, L.G.C.

**Less than 850,000**

If the city has a population less than 850,000, it must use the money for a school crossing guard program if the city operates one. If the city does not operate one, or if the money exceeds the amount necessary to fund it, the city can deposit the money in an interest-bearing account; expend the money for programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention; or expend the additional money for programs assigned to enhance public safety and security. Art. 102.014(g), C.C.P.

**4. Local Traffic Fine**

Section 542.403 of the Transportation Code provides that a person shall pay a \$3 fine upon conviction of a Rules of the Road offense under Subtitle C of the Transportation Code. The city must deposit this money in the municipal treasury. Courts must also be careful not to assess the \$3 fine on traffic offenses outside of Subtitle C, of Title 7, such as failure to maintain financial responsibility, driver’s license offenses, registration offenses, and commercial driver’s license offenses.

**5. Reimbursement Fees Assessed Following Compliance Dismissal**

Certain statutes also provide authority for courts to impose a reimbursement fee if defendants remedy various defects. The fees vary, depending on the defect, whether it was remedied within the time parameters, and when evidence of the remedy must be presented to the court. It is important to note that there must be specific statutory authority not only to impose the fee on a compliance dismissal, but for the judge to dismiss the case in the first place. Compliance dismissals are discussed in more depth in the next chapter.

<b>Reimbursement Fees upon Compliance Dismissal</b>	
Name	Statute
Expired Registration dismissal	502.407(b), TC
Fail Display Registration dismissal	502.473(d), TC
Wrong, Altered, or Obscured Registration dismissal	502.475(c), TC

Fail to Display Two Plates dismissal	504.943(d), TC
Wrong, Altered, or Obscured Plate dismissal	504.945(d), TC
Expired Driver's License dismissal	521.026(b), TC
Fail to Change Address or Name dismissal	521.054(d), TC
Violation of Driver's License Restriction dismissal	521.221(d), TC
Operating Unsafe Vehicle dismissal	547.004(c), TC
Operating Vehicle Without Complying with Inspection Requirements as Certified dismissal	548.605(e), TC
Display Expired Disabled Placard dismissal	681.013(b), TC

## 6. Additional Fees that May be Assessed

The court is required to assess certain reimbursement fees for services of a peace officer. These reimbursement fees are paid by the defendant upon conviction and can be used by the municipality for any legal purpose. Other required fees depend on the type of trial requested or actions of the defendant.

### a. Arrest Reimbursement Fee

Courts must collect a \$5 arrest fee upon conviction when a peace officer issues a written notice to appear for a violation of a traffic law, municipal ordinance, penal law of this state, or makes a warrantless arrest. Art. 102.011(a), C.C.P. A written notice to appear is a citation. Thus, a criminal charge that is initiated by complaint, rather than citation, would generally not qualify for the arrest fee. The statute does not require the arrest reimbursement fee be used for a specific purpose.

#### Practice Note

What happens to the arrest fee if a peace officer employed by the state, such as a DPS Trooper, issued the citation or made the warrantless arrest? In that case, the law provides that the arrest fee shall be forwarded to the Comptroller after four-fifths is deducted by the city. On the \$5 arrest fee, this means 20 percent, or \$1, must be reported to the Comptroller on the last day of the month following the quarter in which it was collected. This process applies to both the arrest fee and the warrant fee. Sec. 133.104, L.G.C.

**b. Summoning a Defendant**

When a peace officer serves a summons on a defendant, upon conviction, the court must collect a \$35 reimbursement fee for the officer's services. Art. 102.011(a)(4), C.C.P. A summons may be served by delivering a copy to the defendant personally, by leaving it at the defendant's house or usual place of abode with some person of suitable age, or by mailing it to the defendant's last known address. Arts. 23.03 and 15.03(b), C.C.P.

**c. Summoning a Witness**

When a peace officer summons a witness by serving a subpoena and the defendant is convicted, the defendant must pay a \$5 reimbursement fee for the services of the peace officer. Art. 102.011(a)(3), C.C.P.

**d. Jury Reimbursement Fee**

When a peace officer summonses a jury and the defendant is convicted, the defendant must pay a \$5 reimbursement fee for the services of a peace officer. Art. 102.011(a)(7), C.C.P.

**e. Cost of Peace Officer Overtime when Testifying**

Defendants must, upon conviction, pay a reimbursement fee of overtime paid to a peace officer for time spent testifying at or traveling to or from trial. Art. 102.011(i), C.C.P. Since the reimbursement fee is for time spent testifying in the case, no overtime may be assessed if the officer did not testify. The amount collected varies depending on the officer's salary and the amount of time spent testifying.

**Practice Note**

It is important for clerks to add the determination of whether the officer is on overtime at the time the officer testifies to the clerk's trial checklist, and then to document the time spent on the witness stand. Clerks will need to make sure that the judge has information about officers' salaries so that the judge may assess this cost. One practice is to also have an affidavit for the officer to sign after testifying so that the court has documentation of the officer's time and the cost to assess.

Article 102.011(b) of the Code of Criminal Procedure also requires defendants convicted of a misdemeanor or felony to pay all necessary and reasonable expenses for meals and lodging incurred by peace officers when performing the following services:

- conveying a prisoner after conviction to the county jail;
- conveying a prisoner arrested on a warrant or capias issued in another county to the court or jail of the county; or

- traveling to execute criminal process, summon or attach a witness, or execute process not otherwise described by Article 102.011, C.C.P.
- time spent preparing jury summons, handling requests for exemptions before trial, and managing the jury on the day of trial.

## 7. Time Payment Reimbursement Fee

Article 102.030 of the Code of Criminal Procedure provides that the court assess a \$15 time payment reimbursement fee whenever a defendant pays any portion of the amount owed on or after the 31st day after the judgment assessing the amount. Prior to a law that went into effect on January 1, 2020, the fee was \$25 and divided in half between the Comptroller and city. The city's portion was further divided, with 10%, or \$2.50, used for the express purpose of improving the efficiency of the administration of justice, and the remaining \$10 placed in the city's general revenue fund. On January 1, 2020, the law changed for offenses on or after that date. The fee was amended and reduced to \$15. The entirety of the fee is required to be placed in a separate account within the city's general revenue fund. That account is required to be used for the purpose of improving the collection of outstanding court costs, fines, or reimbursement fees, or improving the efficiency of the administration of justice. This means that the city keeps more of the fee than under prior law, but it must now all be used for a dedicated purpose. The Comptroller does not receive any portion of the \$15 fee.

### Practice Note

The time payment fee has been challenged as unconstitutional in several Courts of Appeals. The argument has been, based on precedent, that the fee is not allocated to be used for a legitimate criminal justice purpose. Some Courts of Appeals have found that all but \$2.50 (the portion that is expressly used for the administration of justice) is unconstitutional. Thus far, the Court of Criminal Appeals has not ruled on the issue.

In 2021, the Court of Criminal Appeals ruled that because an appeal suspends the obligation to pay court costs, an appeal suspends the running of the clock for the time payment fee. *Dulin v. State*, 620 S.W.3d 129 (Tex. Crim. App. 2021). *Dulin* relates to a growing concern that it is improper to assess the time payment fee upon conviction because, at that point, it cannot be known with certainty—even if the defendant enters into a payment plan—that the defendant will actually pay a portion of the amount owed 31 days or more after the judgment.

## 8. Expunction Fees

There are four types of expunction in municipal court. The expunction type depends on the defendant's age, offense, and case disposition. Some are available only following dismissal or



completion of deferred disposition, while others allow for expunction even after conviction. Each also has a reimbursement fee set by the specific statute authorizing the expunction. It is important for the court to accurately process the correct type of expunction so that the correct fee is assessed.

Three of the expunction types have a \$30 reimbursement fee, although the statutory authorization is located in different places. Cases that qualify for expunction under Article 45.0216(i) of the Code of Criminal Procedure, Section 106.12(e) of the Alcoholic Beverage Code, and Section 161.255(b) of the Health and Safety Code carry the \$30 reimbursement fee. The law provides that the fee is to defray the cost of notifying agencies of the expunction. These expunctions are available to a qualified petitioner in any municipal court.

<b>\$100</b>	<b>Art. 55.02, CCP</b> <ul style="list-style-type: none"><li>• Petition in a court of record for fine-only offense</li><li>• Fee: 102.006(a-1), CCP</li></ul>
<b>\$30</b>	<b>Sec. 106.12, ABC</b> <ul style="list-style-type: none"><li>• Only one ABC arrest or conviction while a minor</li><li>• Fee: 106.12(e), CCP</li></ul>
<b>\$30</b>	<b>Sec. 161.255, HSC</b> <ul style="list-style-type: none"><li>• Cigarette, E-cigarette, or Tobacco conviction</li><li>• Fee: 161.255(b), HSC</li></ul>
<b>\$30</b>	<b>Art. 45.0216, CCP</b> <ul style="list-style-type: none"><li>• Certain offenses committed under age 17</li><li>• Fee: 45.0216(i), CCP</li></ul>

The fourth type of expunction, under Chapter 55 of the Code of Criminal Procedure, is only available to a petitioner in a municipal court of record, justice court, or district court in the county where the fine-only offense occurred, or the petitioner was arrested. Art. 55.02, C.C.P. This means that these courts have concurrent jurisdiction within those parameters for fine-only offenses. A petitioner can thus file for the expunction in any of these courts within the county. The statute authorizes fine-only cases to be expunged in instances such as acquittal at trial or successful completion of deferred disposition. Courts should read Chapter 55 closely, however, as the chapter is complicated with many requirements to qualify for the expunction.

1. Cases that qualify for expunction under Chapter 55 carry a reimbursement fee of \$100 to defray the cost of notifying agencies of the expunction. Art.102.006(a-1), C.C.P. This statute also authorizes the court to waive the \$100 fee if the petitioner was acquitted and files the petition no later than the 30th day after acquittal. Art. 102.006(b), C.C.P.

True or False

69. The municipal court in a city with a population less than 850,000 is required to collect a fine of up to \$5 on parking convictions if the city orders the collection. \_\_\_\_\_
70. A city with a population of less than 850,000 is not required to order the collection of the parking fine for the Child Safety Fund. \_\_\_\_\_
71. When a defendant is convicted of a Subtitle C offense in a school-crossing zone, the defendant is required to pay a \$25 fine. \_\_\_\_\_
72. A defendant convicted of passing a school bus does not have to pay a \$25 fine to the Child Safety Fund unless the offense occurs within a school-crossing zone. \_\_\_\_\_
73. A school-crossing zone is a reduced speed zone to facilitate the safe crossing of students in public schools only. \_\_\_\_\_
74. Someone convicted of the offense of parent contributing to nonattendance does not have to pay a \$20 fine for the Child Safety Fund. \_\_\_\_\_
75. A city with a population greater than 850,000 is required to use the Child Safety Fund for the purpose of providing school crossing guard services. \_\_\_\_\_
76. A city with a population of less than 850,000 must use the money collected for the Child Safety Fund for a school crossing guard program if the city operates one. \_\_\_\_\_
77. The \$3 Traffic Fine court cost must be collected on all traffic convictions. \_\_\_\_\_
78. The court must deposit money collected for the Traffic Fine into the city treasury. \_\_\_\_\_
79. The court is required to assess the \$5 arrest reimbursement fee when a defendant is convicted after a warrantless arrest. \_\_\_\_\_
80. The court is required to assess the \$5 arrest reimbursement fee when a defendant is convicted after being issued a citation. \_\_\_\_\_
81. If a defendant is convicted of the offense of failure to appear, the court is required to assess the \$5 arrest reimbursement fee. \_\_\_\_\_
82. The warrant reimbursement fee may be collected only when a peace officer executes or processes the warrant, capias, or capias pro fine. \_\_\_\_\_
83. If an agency, other than the one issuing the warrant, executes the warrant, that agency may request the \$50 reimbursement fee. \_\_\_\_\_
84. When a peace officer with statewide authority arrests a person, the court is required to remit \$10 of the warrant reimbursement fee to the State upon conviction. \_\_\_\_\_
85. If a city wants to collect a fine not to exceed \$25 for the offense of failure to appear, the city must adopt an ordinance authorizing the collection of the fee. \_\_\_\_\_
86. When a peace officer serves a summons on a defendant, how much must the defendant pay if he or she is convicted? \_\_\_\_\_
87. When a peace officer serves a subpoena, how much must a defendant pay if he or she is convicted? \_\_\_\_\_
88. When a peace officer summons a jury, how much must a defendant pay if he or she is convicted? \_\_\_\_\_

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True or False

89. When an officer testifies during regular duty hours, the defendant, if convicted, must pay a reimbursement fee for the officer's time testifying in court. \_\_\_\_
90. When an off-duty peace officer appears at the trial but does not testify, the court may not assess a reimbursement fee for the peace officer appearing for the trial. \_\_\_\_
91. If a defendant fails to appear for a jury trial and the court assesses a reimbursement fee for impaneling the jury, how may the defendant be released from paying these costs? \_\_\_\_\_
- 
92. What are some items that a clerk may consider when preparing an analysis for costs incurred for summoning and impaneling a jury? \_\_\_\_\_
- 
93. What is the reimbursement fee that a municipal court of record must assess for an expunction petition filed under Chapter 55 of the Code of Criminal Procedure? \_\_\_\_\_

True or False

94. The Local Truancy Prevention and Diversion Fund can be used to pay the salary of a court administrator if there is not a juvenile case manager. \_\_\_\_
95. The Building Security Fund may be used for bailiff education, but may not be used to pay for continuing education on court security issues for court clerks. \_\_\_\_
96. The purpose of the Building Security Fund is to provide all city buildings with security. \_\_\_\_
97. The city must use the Building Security Fund to purchase security items for the court. \_\_\_\_
98. The Technology Fund may only be assessed if the city establishes the fund by ordinance. \_\_\_\_
99. The Technology Fee may be used to pay for maintenance of court technology. \_\_\_\_

## PART 7 WEIGHT AND COMMERCIAL

Certain statutes divide particular fines and costs between the city and the state. Oftentimes, the division is based on a percentage. Those listed below are imposed only at certain times or with specific jurisdiction, so they may not be collected by every court.

### **A. Over Gross Weight Violations**

On conviction of an offense involving operating or loading overweight vehicles under Section 621.506 of the Transportation Code, the court is required to send an amount equal to 50 percent of the fine to the Comptroller. Sec. 621.506(g), T.C. If the offense occurred within 20 miles of the international border, however, the entire amount may be retained by the city for the purpose of road maintenance. Sec. 621.506(h), T.C.

## **B. Commercial Motor Vehicle Safety Standards**

This section is only applicable for cities that may enforce commercial motor vehicle safety standards under Chapter 644 of the Transportation Code. Those cities may only keep part of the revenue from enforcement under the chapter. To enforce these types of violations, municipal police officers must be certified by DPS. Police officers from any of the municipalities on a specific list included in the statute may apply for certification. These include municipalities with a population of 50,000 or more, municipalities in a county bordering Mexico, municipalities in certain counties adjacent to Harris County, and more. The entire list is located in Section 644.101(b) of the Transportation Code.

In each fiscal year, a municipality may keep fines from the enforcement of Chapter 644 in an amount not to exceed 110 percent of the municipality's actual expenses for enforcement in the preceding fiscal year. Section 644.102(d), T.C. This is determined by the Comptroller after reviewing the most recent municipal audit conducted under Section 103.001 of the Local Government Code. If there are no actual expenses for enforcement of Chapter 644 in the most recent municipal audit, a municipality may retain fines in an amount not to exceed 110 percent of the amount the Comptroller estimates would be the municipality's actual expenses for enforcement of Chapter 644 during the year. The municipality must send the Comptroller the amount of the fines that exceeds the limit imposed by the Comptroller. Sec. 644.102(f), T.C.

True or False

100. When a city is not within 20 miles of an international border, the city must remit to the State 50 percent of the fines collected for over gross weight violations. \_\_\_\_\_
101. When a city enforces commercial motor vehicle safety standards, the city may keep fines from these offenses as long as the amount does not exceed 110 percent of the city's actual expenses for enforcement in the preceding fiscal year. \_\_\_\_\_

## **PART 8 SPECIAL FINE DISPOSITION STATUTES**

### **A. Traffic Fines**

Generally, the fine collected in a criminal case is deposited into the city's general revenue fund and may be used for any lawful purpose. Fines collected for offenses under certain sections of the Transportation Code, however, may only be used for specific purposes. Section 542.402(a) of the Transportation Code requires cities to expend fine money collected on convictions under Title 7 of the Transportation Code for (1) construction and maintenance of roads, bridges, and culverts in the city; (2) enforcement of laws regulating the use of highways by motor vehicles.

### **B. Cities Under 5,000 Population**

For cities with a population of less than 5,000, the Legislature restricts the amount of revenue that may be retained from offenses under Title 7 of the Transportation Code. The law, Section 542.402(b) of the Transportation Code, essentially prevents small cities from collecting too large a portion of their budget solely from traffic fines.

The city may keep all the fines, including those under Article 45.051(a), collected for offenses under Title 7 up to 30 percent of its total revenue in the preceding fiscal year. Federal funds and bond sale proceeds do not count in figuring total revenue. When fines for offenses charged under Title 7 equal 30 percent of the budget, all but \$1 of each fine (including the special deferred disposition fine, previously known as the “special expense fee”) collected for Title 7 offenses must be remitted to the State. The city keeps the \$1 as a service fee and remits the revenue with the other quarterly reports.

Additionally, in a fiscal year when the fines for offenses charged under Title 7 reach 20 percent, the court must file a report with the Comptroller. The report must be submitted to the Comptroller within 120 days after a city’s fiscal year ends and (1) must include a copy of the city’s financial statement that is prepared for that fiscal year and filed as required by the Local Government Code, Chapter 103 and (2) show the total amount collected from Title 7 offense fines and special deferred disposition fines. Sec. 542.402(d), T.C. Failure to report may result in an audit conducted by the Comptroller. Sec. 542.402(c), T.C.

### **C. Fines for Parent Contributing to Nonattendance**

If a parent is convicted of the offense of parent contributing to nonattendance, one half of the fine must be paid to the school district in which the child attends school, the open enrollment charter school the child attends, or the juvenile justice alternative education program that the child has been ordered to attend. The other half of the fine goes into the city’s general fund. Sec. 25.093(d), E.C.

True or False

102. The Transportation Code requires all cities to allocate fine money collected for traffic convictions in a certain manner in the city’s budget. \_\_\_\_\_
103. Cities with a population under 5,000 must pay the State all but \$1 of the fines collected for offenses under Title 7 of the Transportation Code after fines and special expenses reach 30 percent of their budget. \_\_\_\_\_
104. When a parent is convicted of contributing to nonattendance, the city must pay the fine to the school district. \_\_\_\_\_

## **PART 9 PASSIVE ENFORCEMENT**

### **A. OmniBase Reimbursement Fee**

Cities may contract with DPS to deny driver’s license renewal to a person who fails to appear, fails to pay, or fails to satisfy the judgment in a manner ordered by the court. Ch. 706, T.C. If a city enters into such an agreement with DPS, the court is required to collect a reimbursement fee from defendants. Prior to a law that went into effect on January 1, 2020, the fee was \$30. Twenty dollars of the fee was remitted to the State, \$6 was paid to OmniBase (the vendor that DPS has contracted with), and the city kept \$4. For offenses on or after January 1, 2020, the fee was reduced to \$10. Per contract between the city and OmniBase, \$6 is paid to OmniBase and the city keeps \$4. The state does not receive any portion of the \$10 reimbursement fee.

## **B. Scofflaw Reimbursement Fee**

Cities may contract with their county to deny vehicle registration renewal to persons who fail to appear or pay on certain traffic warrants. Ch. 702, T.C. Cities may assess a \$20 reimbursement fee on each person who is reported to the “Scofflaw” program. The city must send the entire \$20 to the county tax assessor-collector and may not retain any of the reimbursement fee.

## **C. Private Collection Contract Fees**

The law also authorizes cities to contract with a private attorney or a private vendor for collection services. Art. 103.0031, C.C.P. The terms of these contracts typically vary depending on what is negotiated between the individual city and the particular vendor or private attorney. The law requires, though, that the contracts must specify a 30 percent collection fee or it is not authorized by Article 103.0031. The fee does not apply if a case is dismissed, the defendant is acquitted, or to any part of the fine or costs if a defendant is discharged by jail credit or community service. If a defendant makes a partial payment, the vendor is paid its 30 percent, then the money is allocated on a pro-rata basis to the State and local costs, and any remaining money is applied toward the fine. Tex. Atty. Gen. Op. 0147 (2004). If the defendant has been given notice of a time and place to appear and failed to appear, the court must wait 60 days before reporting the case to the vendor. Courts can refer cases with fine or costs still owed on the 61st day after they are to be paid. Subsection 103.0031(i) also allows cities to enter into a contract to collect a debt incurred on an offense that was committed before June 18, 2003, but no collection fee applies.

True or False

105. If cities want to deny the renewal of driver’s licenses to defendants who fail to appear or fail to pay, they must contract with DPS. \_\_\_\_\_
106. When a city contracts with the Texas Department of Motor Vehicle to deny vehicle registration to defendants who fail to pay or appear, the court collects upon conviction a \$30 reimbursement fee. \_\_\_\_\_
107. Vendor contracts can specify any amount of collection fee. \_\_\_\_\_
108. If a defendant makes a partial payment, the vendor is paid after local and state court costs are paid. \_\_\_\_\_

## ANSWERS TO QUESTIONS

### PART 1

1. True (the court is required to submit traffic conviction reports to DPS).
2. True.
3. True.
4. False (courts do report when a defendant completes a driving safety course, not a deferred disposition).
5. True.
6. True.
7. The court is required to report the:
  - conviction:
    - orders of the driver’s license suspension; and
    - failure to complete the alcohol awareness program or community service; and failure to pay a violation of a court order;
  - failure to appear;
  - orders of deferred; and
  - acquittals of driving under the influence of an alcoholic beverage.
8. It is effective 11 days after the judgment is entered.
9. The DL-115.
10. Not to exceed six months.
11. The DL-115.
12. The court can order DPS to suspend or deny issuance of the driver’s license when a person fails to pay or violates a court order after conducting a contempt hearing under Article 45.050 of the Code of Criminal Procedure, retaining jurisdiction, and ordering the suspension as a sanction.
13. The court must report that deferred disposition was granted and the date granted.
14. The court is required to report the acquittal to DPS.
15. Courts must report a conviction of this offense in the same manner as traffic offenses.
16. The court is required to report convictions to DPS. When a judgment is entered for this offense, the court is required to note an affirmative finding in the judgment. If the offense is a subsequent offense, the court is required to enter a special affirmative finding. When DPS receives the second conviction report, DPS will suspend the driver’s license.
17. Each magistrate, judge of a court of non-record, and clerk of a court of record is required to keep records of persons charged with traffic offenses.
18. Since keeping records is a ministerial duty, usually the clerk of the court maintains all the records including those cases where a traffic offense is charged.
19. True.
20. True.
21. True.

22. False (the court must submit the report within seven days of the judgment).
23. False (the defendant remains convicted of the traffic offense, even if the fine was discharged through community service).
24. Section 543.202 of the Transportation Code requires that the DR-18 report of traffic convictions of commercial drivers operating a commercial motor vehicle contain the following additional information:
  - commercial driver’s license number and social security number, if available;
  - the fact that the vehicle was a commercial motor vehicle;
  - whether the vehicle was involved in the transporting of hazardous materials; and
  - date and nature of offense, including whether the offense was a serious traffic offense as defined in Section 522.003(25) of the Transportation Code (Serious traffic offenses arise from excessive speeding 15 mph over the posted limit or more; reckless driving; violations of state and local traffic laws other than parking, weight, or vehicle defect violations, arising in connection with a fatal accident; improper or erratic lane change; or following too closely.)
25. The court may require the defendant to surrender all of his or her driver’s licenses. If the court takes a license, the clerk must not later than the 10th day after the license is surrendered forward the license together with a record of the conviction to DPS.
26. Not less than 90 days or more than one year.
27. Courts are required to report on DPS form DIC-21.
28. The date that the defendant completed the driving safety course.
29. The date the defendant completed the teen court program.
30. The municipal court conducts a contempt hearing. If the court retains jurisdiction of the juvenile and finds the juvenile in contempt, the court may order DPS to suspend or deny issuance of the driver’s license as a sanction of the contempt. Art. 45.050(c)(2), C.C.P. This is on the DIC-81 form.
31. The court must first send the defendant notice reminding the defendant to take care of their business with the court. The court waits 15 days for a response from the defendant. The court should use the Nonresident Violator Compact form.
32. The court must mail the 4th copy (defendant’s receipt) to the defendant and mail the 5th copy of the notice, which is the notice of withdrawal of suspension to DPS.
33. No action will be taken under the terms of the *Nonresident Violator Compact* for the following violations:
  - offenses which mandate personal appearance;
  - moving traffic violations that alone carry a suspension;
  - equipment violations;
  - inspection violations;
  - parking or standing violations;
  - size and weight limit violations;
  - violations of law governing the transportation of hazardous material;
  - lease law violations; and



- registration law violations.
34. Because DPS may not transmit a report on any violation if the date of the transmission is more than six months after the date on which the traffic citation was issued.
  35. Nothing. The court only reports a traffic conviction to DPS if the defendant fails to complete the terms of the deferred disposition. The report is submitted after the judge enters a final adjudication in the case (signs the final judgment of guilty).
  36. The municipal court does not report the conviction to DPS until it is final.
  37. The court only reports a conviction if the defendant is convicted in the new trial.

#### **PART 4**

38. The OCA is a state agency and operates under the supervision of the Texas Supreme Court.
39. The city secretary must notify the Texas Judicial Council of the name of each person who is elected or appointed as mayor, municipal judge, and clerk of the municipal court.
40. Within 30 days after the date of the person's election or appointment.
41. If an official does not supply the information requested by OCA after a reasonable amount of time, he or she is presumed to have willfully refused the request.
42. The duty to supply information to OCA may be enforced with a writ of mandamus, an order from a court of superior jurisdiction compelling the municipal judge or clerk to perform a particular act that he or she has a duty to do.
43. The Texas Supreme Court and the Texas Court of Criminal Appeals are not required to submit monthly reports.
44. Court activity for each month must be reported to OCA by the 20th day following the end of the month being reported.
45. The court must identify the name of the municipality, the presiding judge, the court clerk, the mailing address of the court, the name of the person actually preparing the report, and the office telephone number of that person.
46. Appointments and fees must be reported to OCA by the 15th day following the end of the month being reported.
47. Every municipal court is required to submit (1) Monthly Court Activity Report; (2) Appointments and Fees Monthly Report. Both are required even if there is no activity and the reported numbers are zero. They are due, however, on different dates.
48. If a court does not have activity, the court should not leave the space blank, but should show "zero" activity.

#### **PART 5**

49. No.
50. For the purpose of collecting court costs, Section 133.101 of the Local Government Code defines conviction as:
  - a judgment, a sentence, or both a judgment and a sentence imposed on the person;
  - the person receives community supervision, deferred adjudication, or deferred disposition; or
  - the court defers final disposition of the case or imposition of the judgment and sentence.

51. Court cost reports must be filed with the State by the last day of the month following each calendar quarter.
52. The city may keep the interest if it reports timely.
53. Cities may not keep the handling fee but must remit it to the State.
54. Courts are required to keep separate records of the funds.
55. False (collected money goes first to costs).
56. False.
57. False (collected money is prorated among all costs).
58. False.
59. False.
60. True.
61. True.
62. No, because the conviction is not final—it is appealed.
63. Notwithstanding the effective date of a legislative act, new court costs and fees are effective for offenses committed on or after January 1st following the date of the new law’s effective date. This rule, however, does not apply to a court cost or fee if the legislative act takes effect on or after the January 1st following the regular legislative session that enacted the new cost or fee.
64. The treasurer must still file a report with the Comptroller and report that no fees were collected.
65. False (on all fine-only offenses other than parking and pedestrian).
66. True.
67. False (on all Rules of the Road offenses).
68. False (The city keeps four percent. The law changed in 2019. For offenses on or after September 1, 2019, the city keeps four percent. For offenses prior to September 1, 2019, the city keeps five percent).

## **PART 6**

69. False.
70. True.
71. True.
72. False.
73. False.
74. False.
75. True.
76. True.
77. False (on all Rules of the Road offenses).
78. True.
79. True.
80. True.
81. False (the offense of failure to appear is initiated by complaint, not a citation).

82. True.
83. True.
84. True.
85. True.
86. Thirty-five dollars.
87. Five dollars.
88. Five dollars.
89. False.
90. True.
91. For good cause at a show cause hearing.
92. Some items that a clerk may want to consider when preparing the analysis are costs of jury summons (paper and printing costs); costs of envelopes and stamps; and clerks' salaries.
93. The reimbursement fee for an expunction under Chapter 55 is one hundred dollars.
94. False.
95. False. Although the Building Security Fund may be used for x-ray machines and bailiff education, it may also be used for court clerks. See the Practice Tip in the Building Security section. Article 102.017 of the Code of Criminal Procedure allows the fund to be used for "continuing education on security issues for court personnel and security personnel."
96. False.
97. True.
98. False. The fund is a required allocation as part of the \$14 Local Consolidated Fee, which is assessed under state law. Prior to January 1, 2020, the law required cities to pass an ordinance to collect an earlier version of the Building Security Fund.
99. True.

#### **PART 7**

100. True.
101. True.

#### **PART 8**

102. True.
103. True.
104. False. The city must only pay one half of the fine to the school district.

#### **PART 9**

105. True.
106. False. The court may assess a \$20 fee for "Scofflaw."
107. False.
108. False.