

# TEXAS JUSTICE COURT

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## TRAINING CENTER

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**2018 – 2019**

**Court Personnel Program**

# **Clerk Certification**

# **Civil Exam Review**

Presented by:

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An Educational Endeavor of the Justices of the Peace and Constables Association, Inc.  
Funded by a grant from the Texas Court of Criminal Appeals

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This guide is aimed at helping a clerk learn the basic fundamentals necessary to become a Certified Justice Court Clerk. You will be directed to resources that will give you the information you will need to pass the exam. For the best chance of passing exam, we recommend that you:

- 1) Review all test-taking tips and information
- 2) Look up all materials recommended in this guide, reading them critically
- 3) Discuss any questions/concerns about what they may mean with another clerk or judge
- 4) Take the relevant practice exam available on the website and then check your answers with the answer key
- 5) Attack the test with confidence, knowing steps 1-4 have prepared you to succeed

**DO NOT** show up at school expecting to learn every piece of information that will be on the test. If you do this, **YOU WILL NOT PASS THE EXAM.** It is critical that you prepare in advance, learning the material you understand, and arriving with questions about the material you do not.

Make sure you are looking at the most recent version of all of the laws/rules. Laws/rules are changed frequently and you don't want to study an old version.

### **What Does the Exam Look Like?**

The exam consists of 50 multiple choice, true/false, or matching questions. You need to get 35 total questions correct to pass the test.

The questions will not ask you which specific section of the law covers a topic, but may ask you which code something is in. So, for example, you will not see a question like:

1. Which section of the Property Code covers writs of possession?
  - a. 24.0061
  - b. 24.023
  - c. 92.02
  - d. 93.01

But may see:

1. Which code lays out the procedures for Evictions?
  - a. Property Code
  - b. Education Code
  - c. Family Code
  - d. Government Code

## Exam Schedule

Both Level 1 exams begin at 8 AM on Day 3 of the seminar. If you are taking a Level 1 exam, you will have to choose to take either the civil or the criminal exam. From 8-8:45, there is a last-minute review session. You should arrive at this session fully prepared for the exam, with questions over sections of the material that you did not understand. This review session on its own is not enough for you to pass the exam.

Following a break, test materials will be distributed, and the test will begin around 9:05 AM. You will have 75 minutes to take the test, meaning it will end around 10:20 AM. Announcements will be made of the exact end time, and of time remaining. When you have completed and turned in your test, you are free to go until the post-test review begins.

TJCTC staff will grade the exams, and once they are graded, the post-test review will begin. The start time of this review will be announced before the exam begins. During this session, participants will see which questions they missed, see what the correct answers are, and have the opportunity to ask why the correct answers are correct. You **may not** take written notes during this process.

Following the post-test review, TJCTC staff will pick the exams back up. You will not be able to take your exam home with you. Certificates for those who pass will be provided at the registration desk. No announcements will be made in class indicating anyone's score or who passed.

If you do not pass, you can schedule a re-test at the TJCTC office in south Austin at least 30 days after your original exam date.

## Test-Taking Tips & Strategies

1. Do not “overthink” the questions. Although the questions may be tough, they are not designed to be trick questions. Any information you need to answer the question will be in the question. Don’t make random assumptions about facts that are not stated in the question.
2. Carefully read the question and **all** of the answers. “Skimming” the question may make you misunderstand what is being asked. And if you read answer A and think “yep!” and mark A and move on, you missed that B and C were also correct and D was “all of the above.”
3. Don’t waste too much time on a single question. The time limit isn’t overly restrictive, as long as you keep moving. Stopping to think for 5 minutes on one question will put you behind schedule. If you think you know an answer but can’t think of it at the moment, skip it and come back. If a question is asking about something that you have never heard of, make an educated guess and move on.
4. Don’t leave any questions blank. There is no penalty for guessing. If you can eliminate one or more choices on a multiple choice question, great, choose from the rest. Make your best guess on a fill in the blank question, you might guess correctly, but will never get it right if it is blank.
5. Don’t second-guess yourself. Of course, change an answer if lightning strikes and you remember **for sure** that something else is the answer. But if you put B first, and then think “welllll, I dunno, maaayyyybe it’s C?”, you are almost certainly better off leaving it as B.
6. RELAX. You will perform your best if you are relaxed. Prepare diligently, and then relax knowing you did all that you could. The worst-case scenario is that you get a timed run at the exam, including a full review of every question and answer, so you know what to study for next time. That’s not too bad!

## **Study Materials**

The following abbreviations are used in this study guide:

- TRCP = Texas Rules of Civil Procedure
- CPRC = Civil Practice and Remedies Code
- Prop Code = Property Code.

The Texas Rules of Civil Procedure may be found at:

<http://www.txcourts.gov/media/1435952/trcp-all-updated-with-amendments-effective-912016.pdf>.

The Servicemembers Civil Relief Act may be found at:

<http://uscode.house.gov/view.xhtml?path=/prelim@title50/chapter50&edition=prelim>.

The statutes may be found at: [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us).

Many of the topics included in this study guide are discussed in detail in non-legalese in our new Deskbook series, which can be found at: <https://www.tjctc.org/tjctc-resources/Deskbooks.html>

Also, it would be well worth your while to study the Glossary/Legal Terms and Definitions handout, also downloadable from our website. More good resources are the Webinar and Newsletter Archives at [www.tjctc.org](http://www.tjctc.org) under the Resources tab, for further discussion of many of these issues.

- 1. Differentiate between jurisdiction and venue (TRCP 500.2 and 502.4)**
- 2. Identify the jurisdiction of the justice court (Government Code 27.031)**
- 3. Know the 4 different kinds of Justice Court cases and understand the differences (TRCP 500.3)**
- 4. Know the correct venue for various suits in Justice Court (TRCP 502.4)**
- 5. Know when and why the district/county court rules or the Rules of Evidence may be applied, and the court's role in making rules of procedure available (TRCP 500.3)**
- 6. Identify the requirements of a clerk to post self-help resources for self-represented litigants (Government Code 51.808)**
- 7. Be familiar with any and all deadlines contained in the Justice Court Civil Procedure Rules (TRCP 500-510)**
- 8. Understand computation of time (TRCP 500.5, 510.2)**
- 9. Identify the required contents of a petition (TRCP 502.2, 508.2, 509.2, 510.3)**

10. Know that upon filing a petition or counterpetition, the petitioner must either pay a filing fee or file a statement of inability to afford payment of court costs (TRCP 502.3)
11. Identify when the new \$5 Judicial and Court Personnel Training Fee is assessed. (Government Code 51.971)
12. Be familiar with the use of a statement of inability to afford payment of court costs, the necessary contents of the form, the requirement that the court provide the form without charge or request, and when/how the statement of inability may be contested (TRCP 502.3; link to Statement of Inability to Afford Payment of Court Costs form provided by the Supreme Court of Texas available in TJCTC's forms: <http://www.tjctc.org/>).
13. Understand the requisites of a citation, who may serve it, and the duties of the person serving the citation and providing a return (TRCP 501, 509.3, 509.4, 510.4)
14. Understand the rules for service of documents other than citation (TRCP 501.4)
15. Understand the court's role in service of notices (Government Code Ch. 80)
16. Identify the time frame for modifying a pleading (TRCP 502.7)
17. Identify when a defendant's answer is due (TRCP 501.1(c), 502.5(d)&(e), 509.3, 510.6)
18. Know the effects of a general denial (TRCP 502.5(b))
19. Know the difference between counterclaims, cross-claims, and third-party claims (TRCP 502.6)
20. Understand representation of a party in Justice Court (TRCP 500.4)
21. Know the procedures, filing requirements, and timing requirements of the following:
  - a. Default Judgments, including when a hearing is needed (TRCP 503, 508.3, 510.6)
  - b. Motion to Transfer Venue (TRCP 502.4(d),(e),&(f))
  - c. Trial Settings and Continuance (TRCP 503.3)
  - d. Jury trials (TRCP 504)
  - e. Nonsuit (TRCP 162)
  - f. Dismissal if plaintiff fails to appear (TRCP 503.6(b))
  - g. Reinstatement (TRCP 165a(3),(4))
  - h. Summary Disposition (TRCP 503.2)
22. Understand the court's role in developing the facts of a case (TRCP 500.6)
23. Understand the requirements of the Servicemembers Civil Relief Act (50 U.S.C. 3901 - 3959)
24. Understand the role of discovery in Justice Court (TRCP 500.9)

25. Understand the role of Alternative Dispute Resolution in Justice Court (TRCP 503.5)
26. Identify the required contents of a judgment (TRCP 505.1)
27. Understand the Court's plenary power (TRCP 507.1)
28. Know the procedures, filing requirements, and timing requirements of the following post-judgment procedures:
  - a. Motion to Set Aside Default Judgment (TRCP 505.3)
  - b. Motion for New Trial (TRCP 505.3)
  - c. Motion to Reinstate (TRCP 505.3)
  - d. Judgment Nunc Pro Tunc (TRCP 306a, 316)
  - e. Appeal, including appeal bonds (CPRC 51.001; TRCP 506, 509.8, 510.9)
  - f. Writ of Certiorari (TRCP 506.4)
  - g. Bill of Review (TRCP 329b(f))
  - h. Writ of Attachment (CPRC 61.001, 61.021; TRCP 593-4, 598, 637)
  - i. Writ of Sequestration (TRCP 696 - 716)
  - j. Abstract of Judgment (Prop Code Ch. 52)
  - k. Writ of Execution (TRCP 621 - 656)
  - l. Writ of Garnishment (CPRC 63.001, 63.004; TRCP 657- 679.)
  - m. Revival of Dormant Judgment (CPRC 34.001, 31.006)
  - n. Payment of unclaimed judgment (CPRC 31.008)
  - o. Foreign judgment filing (CPRC Ch. 35)
  - p. Turnover Order and Application for Receiver (CPRC 31.002; TJCTC Summer 2016 Newsletter, beginning on P. 4)
29. Know the laws/rules/procedures of eviction cases:
  - a. Understand the jurisdictional requirements of evictions (Prop. Code 24.004)
  - b. Identify all the steps of a residential eviction suit (Prop Code Ch. 24; TRCP 510)
  - c. Calculate the proper hearing date of an eviction suit (TRCP 510.2, 510.4)
  - d. Identify the continuance rule for evictions (TRCP 510.7)
  - e. Identify the requirements for requesting jury trials in evictions (TRCP 510.7)
  - f. Understand the requirements and effects of Immediate Possession Bonds (TRCP 510.5)
  - g. Understand special default judgment procedures in evictions (TRCP 510.6, Prop Code 24.0061 (c))
  - h. Know when attorney's fees may be awarded in evictions (Prop Code 24.006 (a) and (b))
  - i. Understand the requirements for a Writ of Possession (Prop Code 24.0061 (b); TRCP 510.8(d))
  - j. Understand the evictions appeal process, including appeal timing, appeal bond, statements of inability to afford payment of costs, when rent must be paid into the registry, and notice requirements by the parties and court (TRCP 510.9; Prop Code Ch. 24)
  - k. Understand eviction procedure post-foreclosure (Prop Code 24.005(b))

