

State and City Reports

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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. The agencies responsible for obtaining the information and money from the courts typically provide guidelines and forms. Usually clerks submit the reports, although in some instances, statutes provide that the judge is responsible for the maintenance and submission. These duties, although required of the judge, are generally ministerial and administrative in nature. For this reason, the judge may delegate these duties to the clerk.

There are three state agencies that require reporting from all municipal courts: the State Comptroller of Public Accounts (CPA); the Department of Public Safety (DPS); and the Office of Court Administration (OCA).

Some reports help courts to enforce appearance and payment of fines in their courts. For example, when a juvenile fails to appear or pay, the court submits a report to the DPS to deny issuance of or to suspend the driver's license until the juvenile appears and complies with court orders. Other reports help build the defendant's criminal record to be used by other courts if the defendant is later charged with another offense. For example, when a defendant completes a driving safety course, the court submits a report to the DPS to add that course to the defendant's driving record so that future courts can know if the defendant is eligible or ineligible for a driving safety course.

Clerks should always submit required reports timely to avoid the consequences of improper reporting. For example, the statute governing the reporting of traffic convictions to DPS provides that failure to timely submit reports may constitute misconduct of office and be grounds for removal from office. State statutes also provide that if the court does not submit a monthly report of statistics to the OCA, the judge or clerk may be ordered to report by a court of superior jurisdiction. Failure to timely and properly report court costs to the State carries financial consequences. The State will collect the unpaid amounts from the city including the 10 percent handling fee that the city would ordinarily keep if the city had properly reported.

Sometimes courts have difficulty collecting data and preparing reports. These courts must develop manual processing procedures and rules for maintaining the data to help them manage the day-to-day collection of the information to enable them to timely and properly report. If court records are maintained electronically, computer software programs are designed to properly capture the required information for the reports.

This chapter discusses required and optional reports and the specific requirements of these reports. The goal of this guide is to help clerks understand how to properly report to the CPA, DPS, and OCA.

PART 1 REPORTS TO THE DEPARTMENT OF PUBLIC SAFETY

A. Transportation Code

Each magistrate, judge of a non-record court, and clerk of a court of record shall 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 report traffic convictions and

bond forfeitures on a form or by a data processing method acceptable 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

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(1), C.C.P.

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 deferred. 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 says 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" 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. This offense is a Class C misdemeanor.

The court in which the person is convicted may require the defendant to surrender all the driver's licenses held by the person. If the court requires a defendant to surrender his or her driver's license, the clerk must send the license with a report of the final conviction or final bond forfeiture to DPS by the 10th day after the license is surrendered. Sec. 521.347(a), T.C. A conviction is not considered final if the court defers disposition and does not subsequently proceed with an adjudication of guilt and impose sentence. A bond forfeiture is final if the forfeiture is not vacated. Sec. 521.347(c), T.C.

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 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. 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.

The form is available on the TMCEC website in the *Forms Book* under Government and Agency Forms, as are copies of all the DPS reporting forms.

(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 Convictions or Forfeiture of Bail

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. Do not wait for payment to be made.

Many clerks remember when the court had 30 days from date of conviction to send the report to DPS. In 2009, this time deadline was shortened to just seven days. This is because DPS has 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. Many clerks have expressed concern that the defendant still has three more days in which to appeal the conviction at the point this report is due. Regarding this conflict, the 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. Courts should always verify current reporting processes, however, with the specific state agency.

7. Methods of Reporting

Courts must contact DPS to get a secure identification number. DPS now requires electronic reporting.

B. Alcoholic Beverage Code

Courts are required to report to DPS certain information regarding Alcoholic Beverage Code offenses committed by minors. The Alcoholic Beverage Code defines a minor as a person under the age of 21.

The information maintained by DPS regarding Alcoholic Beverage Code offenses reported by courts is confidential and may not be released, except to law enforcement agencies and to courts to enable them to carry out their official duties. Secs. 106.117(c) and (d), A.B.C.

1. Reporting Convictions

Upon conviction, the judge is required to order in the judgment, the suspension or denial of issuance of the minor's driver's license for the following Alcoholic Beverage Code 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).

The suspension or denial is effective the 11th day after the judgment. The court's report of the suspension or denial of issuance of driver's license notifies DPS of the conviction. The length of suspension or denial is:

- 30 days for a first conviction;
- 60 days for a second conviction (only if the complaint is enhanced to allege that there was a prior conviction); and
- 180 days for a third or subsequent conviction. If a defendant is under 17 years of age, the third conviction must be transferred to juvenile court unless the city has a juvenile case manager. Art. 45.056, C.C.P. In addition, 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, 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 the following Alcoholic Beverage Code 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);
- Driving Under the Influence of Alcohol by Minor (DUI) (Sec. 106.041);
- Possession of Alcohol by a Minor (Sec. 106.05); and
- Misrepresentation of Age by a Minor (Sec. 106.07).

If the defendant fails to show evidence of completion of the program or the performance of the community service:

- 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.); and
- the clerk reports the judge's order to DPS, which notifies DPS of the beginning and ending of the suspension or denial of issuance period. Sec. 521.345, T.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 deferral. (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 \$50 (not withstanding any enhancements). 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. 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

The court must order a person under the age of 18 convicted of a tobacco offense to complete a tobacco awareness program. Sec. 161.253, H.S.C. Tobacco offenses include possession, purchase, consumption, or receipt of cigarettes or tobacco products. If the defendant fails to complete the tobacco awareness program or tobacco related community service, 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. Sec. 161.254, H.S.C.

Although the statute does not provide how long the court has to submit the report to DPS, it should be submitted as soon as possible after the judge orders the suspension so that DPS can immediately start the suspension process.

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 and/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), 521.294(6), 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.

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 that DPS no longer accepts the DR-18 form. Conviction reporting should be done electronically. Courts must contact DPS to get reporting information.

	DL-115 (formerly DIC-15)	DIC-81	DR-18	DIC-21
Alcoholic Beverage Code	Chapter 106: (Minors Under Age 21) <ul style="list-style-type: none"> • Conviction: driver's license suspension or denial of driver's license (Sec. 106.071, A.B.C.). • DUI acquittal (Sec. 106.117(4), A.B.C.). • Deferred disposition order (Sec. 106.117(3), A.B.C.). • Failure to complete awareness program: must order suspension or denial of driver's license (Sec. 106.115(c) and (d), A.B.C.). • Failure to complete community service: must order suspension or denial of driver's license (Sec. 106.115(c) and (d), A.B.C.). 	Under Age 17 <ul style="list-style-type: none"> • Failure to appear: DPS suspends or denies driver's license (Sec. 521.3452, T.C.). • 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. 		

<p>Health and Safety Code</p>	<p>Possession, Purchase, Consumption, or Receipt of Cigarettes or Tobacco Products by Minor Under Age 18 - Sec. 161.252, H.S.C.</p> <p>Failure to complete the tobacco awareness program or tobacco related community service: must order DPS to suspend or deny issuance of driver's license (Sec. 161.254, H.S.C).</p>	<p>Under Age 17</p> <ul style="list-style-type: none"> • Failure to appear: DPS suspends or denies driver's license (Sec. 521.3452, T.C.). • 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. 		
<p>Penal Code</p>	<p>Public Intoxication Minor - Sec. 49.02(e), P.C.</p> <ul style="list-style-type: none"> • Driver's license suspensions or denial of driver's license on convictions. • Orders of deferred disposition. • Failure to complete awareness program: court must order suspension or denial of driver's license. • Failure to complete community service: court must order suspension or denial of driver's license. 	<p>Under Age 17</p> <ul style="list-style-type: none"> • Failure to appear: DPS suspends or denies issuance of driver's license (Sec. 521.3452, T.C.). • 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. 	<ul style="list-style-type: none"> • Motor Vehicle Fuel Theft (Sec. 31.03, P.C.). • Open Container (Sec. 49.031, P.C.). 	
<p>Transportation Code</p>		<p>Under Age 17</p> <ul style="list-style-type: none"> • Failure to appear: DPS suspends or denies issuance of driver's license (Sec. 521.3452, T.C.). • 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. 	<ul style="list-style-type: none"> • All traffic convictions and final bond forfeitures including city traffic ordinances (Sec. 543.201, T.C.). • Dismissals of DSC or MOC (Art. 45.0511, C.C.P.). • Passing a School Bus - Sec. 545.066(d), T.C.). • On second or subsequent conviction, court may order driver's license 	<p>Convictions of offenses under Sec. 521.453, T.C.</p> <p>Driver's license suspension is not less than 90 days or more than one year. (Sec. 521.346, T.C.)</p>

			suspended for not longer than six months beginning on the date of conviction.	
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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. _____
If a defendant does not complete a tobacco awareness program, what is the court required to order DPS to do? _____
18. _____
Who is required to keep a record of defendants charged with traffic offenses? _____
19. _____
Who may keep the records of defendants charged with traffic offenses? _____

True and False

20. _____
The court is required to send notice of all traffic convictions to DPS. _____
21. _____
The court must notify DPS of convictions for city ordinance traffic offenses. _____
22. _____
The court must report final judgments on bond forfeitures for traffic offenses. _____
23. _____
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. _____
24. _____
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. _____
25. _____
List information to be reported to DPS on drivers of CMVs. _____
26. _____
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? _____
27. _____
For offenses that require automatic driver's license suspension, what is the minimum and maximum amount of time the court may suspend the license? _____
28. _____
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? _____
29. _____
When a court reports to the DPS a defendant's completion of a driving safety course, what information must the court report? _____
30. _____
What must the court report when a defendant charged with a traffic offense completes teen court? _____
31. _____
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? _____
32. _____
If an out-of-state defendant fails to appear, what can the court do? _____
33. _____
If an out-of-state defendant resolves the case with the court, what is the court required to do? _____
34. _____
List violations committed by an out-of-state violator that the court may not report under the *Nonresident Violator Compact*. _____

35. Why should clerks report an out-of-state violator as soon as they fail to appear or fail to pay? _____
36. When a court grants deferred disposition to a defendant charged with a traffic offense, what does the court report to DPS? _____
37. If a court suspends or denies issuance of a defendant's driver's license for a conviction for the offense of failure to attend school, for how long may the suspension or denial be? _____
38. What happens if a defendant appeals his or her traffic conviction? _____
39. 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 COMMISSION ON ALCOHOL AND DRUG ABUSE

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 Department of State Health Services. 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).

The report must be in the form approved by DSHS, but no form exists. If the DSHS 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.

PART 3

REPORTS TO THE TEXAS PARKS AND WILDLIFE DEPARTMENT

Municipal courts have jurisdiction over fine-only offenses under state law. 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, arguably, municipal courts would have jurisdiction over these offenses, provided they are committed in the city's territorial limits.

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 (PWD) within 10 days after the date of collection. 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/rule violated.

There is some question over how much of the fine must be remitted to the PWD. 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. The Attorney General in Attorney General Opinion GA-0745 opined that this provision does not require the remittance of any special expense fee collected from a defendant placed on deferred disposition for a Parks and Wildlife Code offense.

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. Secs. 72.011 and 72.012, G.C.

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.

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. Official Municipal Court Monthly 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.

At that time, 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 judges or clerks 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.

2. Monthly Report Form

Courts use the *Official Municipal Court Monthly Report* 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 at 512.463.1625.

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. A revised form, collecting substantially more information than in recent years, was implemented in September 2011. The OCA publishes a booklet of specific instructions for completing the report. Clerks can obtain the instruction booklet by visiting <http://www.txcourts.gov/oca.aspx>. TMCEC has several archived webinars presented by OCA personnel concerning OCA reporting; these archived webinars can be accessed on at TMCEC's online learning center at online.tmcec.com.

If a court does not have any activity in a section of the monthly report, the court must still report and show "zero" activity.

- | | |
|-----|--|
| 40. | What is the Office of Court Administration (OCA)? _____
_____ |
| 41. | What is the mission of OCA? _____
_____ |
| 42. | What does the Texas Judicial Council do? _____
_____ |
| 43. | 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 the office. _____
_____ |
| 44. | How long does the city secretary have to make the report? _____
_____ |
| 45. | When is a person presumed to have willfully refused to supply information to the Office of Court Administration? _____
_____ |
| 46. | How is the duty to supply information to the Office of Court Administration enforced? _____
_____ |
| 47. | Which courts are not required to submit monthly statistical reports to OCA? _____
_____ |
| 48. | How often is court activity reported to OCA? _____ |
| 49. | What identifying information must the court place on the form? _____
_____ |

50. If the court has no activity, how does the court report that fact? _____

PART 5

REPORTS TO STATE COMPTROLLER OF PUBLIC ACCOUNTS

State statutes require courts to collect court costs and fees from defendants convicted of fine-only offenses. Some of the costs and fees are retained by the city; some are required to be remitted to the State. City councils do not have general authority to adopt fees or court costs unless expressly authorized to do so by statute. Art. 45.203(d), C.C.P. Likewise, judges do not have authority to impose a cost or fee without any legal basis.

Funds that are collected without authority are considered by the State to be unjust enrichment. If the State determines that costs or fees are collected without authority, the Comptroller of Public Accounts (CPA) requires the money to be returned to the defendants, or if the court is unable to locate the defendants, to turn the money over to the State (to the unclaimed property division of the CPA).

State statutes provide authority in five instances for municipalities to adopt ordinances for the collection of court costs. Article 45.203 of the Code of Criminal Procedure authorizes cities to establish a fee by ordinance, not to exceed \$25 for executing warrants for failure to appear or violation of promise to appear. There is also authority to create by ordinance a building security fee, a technology fee, a juvenile case manager fee, and service fees for collection of fines, costs, and bonds by credit card or electronically.

A. General Information

1. Definition of Conviction

For the purpose of collecting most court costs, Section 133.101 of the Local Government Code defines conviction in a case 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 definition of “conviction” can be confusing, as court personnel know that the successful completion of a deferred disposition results in a dismissal of the case and not a conviction. However, for the purpose of court costs, a case that is deferred and subsequently dismissed does require the assessment of court costs.

2. Time to Report

Court cost reports must be filed with the CPA by the last day of the month following each calendar quarter. If the treasurer does not collect any fees during a calendar quarter, the treasurer

must still file a report in the regular manner and report that no 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. 133.0569(b), L.G.C.

3. Accrued Interest and Handling Fee

Cities may maintain court costs and fees in an interest bearing account. If reported timely, the city may keep the interest as well as any applicable handling fee. The handling fee is 10 percent of the Consolidated Fee, State Judicial Support Fee, and State Jury Reimbursement Fee; and five percent of the State Traffic Fine.

Under Section 133.058 of the Local Government Code, the city may retain 10 percent of any collected fee reported timely. This is a general statute that would govern any fee that does not explicitly provide for a handling fee, unless the statute provides for a higher percentage.

If a city fails to report timely, the city must remit 100 percent of the court costs collected, including handling fees and interest. Sec. 133.055, L.G.C.

4. Record Keeping

Although courts are not required to have a separate bank account for court costs, separate records must be kept of collected funds. Costs to be remitted to the State as well as certain local court costs are dedicated and cannot be co-mingled with the city's general revenue.

5. Remitting Electronically

Some cities are required to remit court costs and fees electronically. If \$250,000 or more in court costs and fees are remitted to the CPA in a state fiscal year (September through August), payments of \$10,000 or more must be made by electronic funds transfer in the following fiscal year. When a city is affected by this rule, the CPA must notify the city no less than 60 days before the first payment is required to be made. Sec. 404.095, G.C. and Sec. 3.9, Part I, of Title 34, T.A.C. Although a non-qualifying city may not be required to remit electronically, it may voluntarily remit in this manner, but the reporting must still be done manually.

6. Allocation and Proration

When judges allow defendants to pay fines and court costs through an installment plan, clerks must ensure proper reporting and remittance of the court costs and fees. The CPA requires courts to allocate money collected first to court costs and fees, then to fines. They rely on Attorney General Opinion M-1076 (1972). This opinion was reaffirmed in February 2004, in Opinion GA-0147, holding that money collected by a court must be allocated to all court costs before the fine.

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 must prorate the costs collected among all the court costs, including the local court costs, and report the State's portion on the quarterly report. If the court does not prorate and report, the city must forfeit its handling fees.

To prorate, the court should use the following formula:

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

The following is an example of how to use the formula: a defendant convicted of the offense of speeding is assessed a fine of \$175 and court costs of \$92.00, but only pays \$46.00.

$$\frac{\$46.00}{\$92.00} = 50\% \text{ to each cost/fee}$$

50%	x	40.00	CF	=	20.00
50%	x	30.00	STF	=	15.00
50%	x	6.00	SJRF	=	3.00
50%	x	4.00	SJSF	=	2.00
50%	x	2.00	IDF	=	1.00
50%	x	5.00	AF	=	2.50
50%	x	3.00	TFC	=	1.50
50%	x	2.00	TPDF	=	1.00
50%	x	92.00		=	46.00

In the example, the arrest fee and the local traffic fund fee, which stay with the city, are included in the proration. If the court assesses other local fees such as the \$3 building security fee or the \$50 warrant fee, the proration should also include those fees.

7. Community Service Credit

A judge may require a defendant to discharge fines and court costs by performing community service. If the offense occurs on or after January 1, 2004, the court credits no less than \$50 toward the fine for every eight hours of community service performed. The judge may grant more than \$50 for every eight hours of community service performed, but may not grant less than the \$50. Art. 45.049, C.C.P.

If a defendant discharges the total amount due the court, including fine and court costs, by community service, the court does not have to remit to the CPA money that it did not collect. If the defendant discharges only part of the total amount due by community service and pays money for part of the judgment, the community service credit goes first to the fine and then to court costs. Any money collected must be credited and allocated first to court costs. Tex. Atty. Gen. Op. M-1076 (1972).

8. Jail-Time Credit

A judge must credit a defendant for time served in jail from the time of arrest to conviction and for time served after conviction. Art. 45.041(c), C.C.P. The rate of credit is not less than \$50 for a period of time specified in the judgment. "Period of time" is defined to mean not less than eight hours or more than 24 hours. Arts. 45.041 and 45.048, C.C.P.

As custodians of the records, court clerks are responsible for properly recording jail-time credit. Jail-time credit may either discharge the total fine and costs owed, or just satisfy a portion of the fine and costs. 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, the CPA does not require the court to remit court costs that were not collected in money. However, if the jail credit does not discharge the total amount owed by the defendant, any actual money collected must be credited first to court costs. Tex. Atty. Gen. Op. M-1076 (1972).

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, who posted a cash bond and entered a written and signed plea of nolo contendere and a waiver of jury trial, fails to appear. Art. 45.044, C.C.P. The court must immediately notify the defendant in writing of the judgment, stating that the forfeiture satisfies the defendant's fine and costs.

The defendant has a right to request a new trial not later than the 10th day after the date of the judgment. If the defendant does not request a new trial, the judgment becomes final.

Since there is a conviction, court costs must be paid to the State. When the defendant has been in jail, the defendant must be given jail credit if applicable. If the credit satisfies all of the fine and costs, the court must refund the bond. If the jail credit does not completely satisfy the fine and costs, any money retained by the court from the bond would be allocated to the court costs first.

10. Court Costs for Deferred Disposition

When deferred disposition is granted by the judge under Article 45.051 of the Code of Criminal Procedure, the judge may immediately collect court costs. Art. 45.051(a), C.C.P. As an alternative, 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.

If the defendant complies, the court must dismiss the case. If the court ordered a special expense fee, this fee is a local fee and may be used for any lawful purpose designated by the city. If the defendant fails to comply with the terms of the deferral, the court imposes a fine and converts any monies paid toward the special expense fee into payment for the fine. The court collects court costs once in a deferral.

11. Court Costs for Driving Safety Course

Court costs must be collected when the court grants the request to take a driving safety course under Article 45.0511 of the Code of Criminal Procedure. The court may also collect a non-refundable \$10 administrative fee. Art. 45.0511(f), C.C.P. If a driving safety course is granted under Subsection (d) of Article 45.0511 (the discretionary provision), the court may, under Subsection (f)(2) of 45.0511, assess a special non-refundable expense fee not to exceed the maximum possible amount of the fine that could have been imposed.

If the defendant complies, the court must dismiss the case. The administrative fee paid by the defendant stays with the city, while the costs are appropriately remitted to the State. If the defendant fails to comply, the court imposes a fine and the defendant is not entitled to a refund of the administrative fee.

12. Court Costs on Appeals

When a defendant files an appeal bond, all further proceedings in a case cease. Art. 45.044, C.C.P. In a non-record court when a conviction is appealed, the municipal court judgment is nullified. Therefore, the municipal court does not collect court costs (or the fine). If the defendant is convicted in county court, the county court collects the costs and reports them to the CPA.

In a record court, if the county court affirms the judgment, the municipal court collects the fine and costs and reports the costs. Art. 44.0281, C.C.P.

If a city has contracted with DPS and a defendant has been submitted under the Failure to Appear Program (OmniBase), upon appeal, if the defendant wants to renew his or her driver's license, the defendant must pay the \$30 fee to the municipal court. This is the only exception to paying court costs on appeal. Sec. 706.005(a)(1), T.C.

13. Waiver of Fine and Costs

Judges may waive court costs in three instances:

- when teen court is granted;
- when the court determines that a defendant was a child at the time of the offense and has defaulted in payment of a fine and/or costs and that performing community service would be an undue hardship; and
- when the court determines that a defendant has defaulted in payment of a fine and/or costs and that the defendant is indigent and performing community service would be an undue hardship. Arts. 45.052 and 45.0491, C.C.P.

If a judge waives court costs, the court should document its findings in the order of waiver. When teen court is granted and the judge waives the fees and costs, the court should have an order waiving the costs and/or fees.

14. Legislative Changes

Court costs are subject to change each legislative session. Changes 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, court costs and fees do not affect courts until January 1st of the year following the legislative session. Therefore, courts have to keep court costs charts from prior years in order to know the correct amount to collect for past offenses. County and district courts have express direction to calculate costs based on the costs in effect on the date of conviction; while municipal and justice courts continue to calculate costs based on the costs that were in effect on the date of the offense.

Appendix A includes the court costs chart in effect for offenses committed on or after January 1, 2014. For older court costs charts back to 1999, visit the TMCEC website.

Current Court Costs

1. Consolidated Fee

The consolidated fee of \$40 is collected upon conviction for fine-only misdemeanor offenses other than pedestrian or parking offenses. Sec. 133.102, L.G.C. If reported timely, the court can keep a 10 percent handling fee.

This fee consolidates the following individual court costs:

- Abused Children’s Counseling
- Crime Stoppers Assistance
- Breath Alcohol Testing
- Bill Blackwood Law Enforcement Management Institute
- Law Enforcement Officers Standards and Education Standards
- Comprehensive Rehabilitation
- Judicial and Court Personnel Training Fund
- Operator’s and Chauffeur’s License
- Criminal Justice Planning
- Juvenile Crime and Delinquency
- Fugitive Apprehension
- Correctional Management Institute
- Fair Defense Account
- Law Enforcement Officers Standards and Education

2. State Traffic Fine

The State Traffic Fine is a \$30 court cost collected upon conviction of Subtitle C, Rules of the Road, Transportation Code offenses. This includes parking and pedestrian offenses. The city keeps a five percent handling fee if it is reported and remitted timely to the CPA. Sec. 542.4031, T.C.

3. State Juror Reimbursement Fee

The \$4 State Juror Reimbursement Fee went into effect September 1, 2005. It is collected upon conviction of all fine-only offenses except pedestrian and parking offenses. The city keeps a 10 percent handling fee if reported and remitted timely. Art. 102.0045, C.C.P.

4. State Judicial Support Fee

The State Judicial Support Fee went into effect December 1, 2005. It is collected upon conviction of all fine-only offenses except pedestrian and parking offenses. In 2007, the amount of this fee increased from \$4 to \$6, effective January 1, 2008. The city keeps a 10 percent handling fee if reported and remitted timely. Sec. 133.105, L.G.C.

The city treasurer must deposit the 10 percent (60 cent) handling fee into the general fund of the municipality to promote the efficient operation of the municipal court and the investigation, prosecution, and enforcement of offenses that are within the jurisdiction of the court.

5. Indigent Defense Representation Fee

The court is required to collect a \$2 fee to be used to fund indigent defense representation through the fair defense account established under Section 71.058 of the Government Code. The

fee is collected on all fine-only offenses except parking and pedestrian offenses starting January 1, 2008. The city keeps a 10 percent handling fee. Sec. 133.107, L.G.C.

6. State Moving Violation Fee

Starting January 1, 2010, a cost of 10 cents was instituted and imposed on all moving violations. The city gets to keep 10 percent, or one cent. The portion remitted to the State is deposited in the Civil Justice Data Repository Fund. Sec. 102.121, G.C. and Art. 102.022, C.C.P.

7. Truancy Prevention and Diversion Fund

Effective January 1, 2014, courts are required to collect a \$2 fee to be known as the Truancy Prevention and Diversion Fund. The cost applies to all fine-only offenses except parking and pedestrian offenses. The city must remit the entire fee to the State to appropriate the money to the Criminal Justice Division of the Governor’s Office for distribution to local governmental entities for truancy prevention and intervention services. However, the city (or the custodian of funds) may retain 50 percent of the money collected for the purpose of operating or establishing a juvenile case manager program, if the county or municipality has established or is attempting to establish a juvenile case manager program.

This fee will be collected by all municipal courts and is in addition to the juvenile case manager fee discussed below. No city ordinance is necessary to collect this fund; it is a base state court cost. Article 102.015 of the Code of Criminal Procedure makes clear that this fund is subject to audit by the CPA. In conjunction with laws regulating when costs are calculated and collected, this cost will be collected on conviction or deferral of all fine-only offenses, other than parking and pedestrian, that are committed on or after January 1, 2014.

8. Child Safety Seat Court Cost Repealed

A 15 cent court cost was imposed on convictions for child safety seats violations under Section 545.412 of the Transportation Code beginning January 1, 2010. The purpose of the cost was to fund the purchase of child safety seats for needy families. While the law was well-intentioned, it was ineffective, as the administrative costs were higher than the revenue derived from the court cost. Section 102.122 of the Government Code was repealed effective September 28, 2011.

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

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

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

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

55. If the city does not report timely, what happens to the handling fee? _____

56. Even if the court deposits court costs into the city treasury, what type of records is the court required to keep? _____

57. When is a city required to remit court costs electronically? _____

True or False

58. When the court collects only part of the fine and costs, the clerk may allocate all of the money to the fine. _____

59. Courts may choose to wait until all court costs are collected before remitting them to the State. _____

60. 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. _____

61. 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. _____

62. A defendant cannot discharge court costs by jail credit. _____

63. Courts may grant deferred disposition and allow defendants to pay court costs during the deferral. _____

64. If a defendant is granted a driving safety course, the defendant must pay court costs.

65. What happens to municipal court proceedings when a defendant files an appeal bond with the court? _____

66. When a case is appealed, must the court collect the court costs? _____

67. When may a judge waive court costs and the fine? _____

68. When the Legislature changes court costs, when do the changes apply? _____

69. What must a city do if its court does not collect any court costs or fees during a calendar quarter? _____

True or False

70. The Consolidated Fee is collected on all Class C misdemeanor convictions. _____

71. The court keeps a 10 percent handling fee on the Consolidated Fee if remitted and reported timely. _____

72. The State Traffic Fine is collected on all traffic convictions. _____

73. The court keeps a 10 percent handling fee on the State Traffic Fine. _____

74. The State Juror Reimbursement Fee is collected on all Class C misdemeanor convictions. _____
75. The 60 cents retained by the city from the State Judicial Support Fee must be used to promote the efficient operation of the municipal court and the investigation, prosecution, and enforcement of offenses that are within the jurisdiction of the court. _____
76. Only cities that have a juvenile case manager program must collect the \$2 Truancy Prevention and Diversion Fund. _____

PART 6 LOCAL COURT COSTS

A. State Court Costs Retained by the City

1. 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 fee for the Child Safety Fund 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 court cost not to exceed \$5 upon conviction if the governing body orders the collection of the fund. 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 fee for the Child Safety Fund for any offense under Subtitle C of the Transportation Code committed in a school-crossing zone. Chs. 541-600, T.C.

School crossing zone is defined in Section 541.302 of the Transportation Code as “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.” In order for the court to assess \$25 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.

c. Passing a School Bus

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

d. Parental Offense

Courts must also collect \$20 for the Child Safety Fund for the following offense:

- parent contributing to nonattendance (Sec. 25.093, E.C.).

e. How Fund is Administered

Administration of the Child Safety Fund depends on the size of the city. 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. Ch. 343, L.G.C.

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. 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. Art. 102.014(f), C.C.P.

Prior to September 1, 2009, if a city had a population of less than 850,000, the money collected for the Child Safety Fund had to be used for any existing school crossing guard program. If the city did not operate such a program or if the money exceeded the amount necessary to fund it, the city could deposit the additional money in an interest-bearing account or expend it for programs designed to enhance child safety, health, or nutrition; including child abuse prevention and intervention, and drug and alcohol abuse prevention. Since 2009, the city may expend the additional money on programs designed to “enhance public safety and security.” Art. 102.014, C.C.P.

2. Local Traffic Fund

Section 542.403 of the Transportation Code provides that a person shall pay a \$3 court cost upon conviction of a Rules of the Road offense under Subtitle C of the Transportation Code. Although the courts commonly call this the “traffic fund,” the statute does not give it that name and refers to it as just a court cost. The city must deposit this money in the municipal treasury.

Courts must also be careful not to assess the \$3 cost on traffic offenses outside of Subtitle C, of Title 7, including failure to maintain financial responsibility, driver’s license offenses, registration offenses, and commercial driver’s license offenses.

3. Arrest Fee

Courts must collect a \$5 arrest fee upon conviction when a peace officer issues a written notice to appear (citation) for a violation of a traffic law, municipal ordinance, or penal law of this state, or makes a warrantless arrest. Art. 102.011(a), C.C.P.

If a charge is initiated by a formal charging instrument (complaint), the arrest fee may not be collected. Also, when a peace officer files a charge by complaint and obtains a warrant of arrest, the court may not collect the arrest fee. Likewise, the arrest fee may not be collected for the

offenses of failure to appear or violation of promise to appear since these charges are initiated by complaint and a warrant is issued.

If a city officer issued the citation or made the warrantless arrest, the city keeps the arrest fee. If a peace officer with statewide authority, such as a DPS officer, issued the citation, 20 percent (\$1) must be reported to the State the last day of the month following the quarter in which it was collected. The statute does not require the arrest fee be used for a specific purpose, and it may be deposited into the general revenue fund.

4. Warrant Fees

a. Warrant Fee

The Warrant Fee is collected when a peace officer performs certain services. Article 102.011(a)(2) of the Code of Criminal Procedure requires a \$50 warrant fee be collected upon conviction if a warrant, *capias*, or *capias pro fine* is processed or executed by a peace officer.

A warrant, *capias*, or *capias pro fine* is executed if the officer serves the warrant by arresting the defendant. As the statute does not define processing, the judge must determine what he or she will consider as processing. Some processes that a peace officer might conduct 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 warrant, *capias*, or *capias pro fine* executes it, that agency may request the \$50 fee. The request must be made within 15 days after the arrest. If that agency fails to request the fee, it is still required to be collected, but is paid into the issuing city's treasury. If a peace officer employed by the city from which the warrant, *capias*, or *capias pro fine* was issued executes or processes the warrant, the \$50 would be collected and paid into the city treasury. If a peace officer with statewide authority executes or processes the warrant, 20 percent (\$10) must be remitted to the State the last day of the month following the quarter in which it was collected. If the warrant is executed or processed but there is no conviction, no fee may be assessed or collected.

Likewise, if a warrant, *capias*, or *capias pro fine* is not processed or served by a peace officer, the court may not assess the fee. For instance, when the warrant is given to a private collection agency to process, the fee may not be collected because a collection agency does not employ peace officers. However, if the court gives the warrant to the local police department for some type of processing before sending the warrant to the collection agency, the court may assess the fee.

The statute does not require that this fee be used for any specific purpose. It may be placed in the city's general revenue fund and used for any lawful purpose.

b. Special Expense Fee

Article 45.203 of the Code of Criminal Procedure says that cities must by ordinance prescribe rules, not inconsistent with state law, as may be proper to enforce the collection of fines. This statute also provides authority to adopt an ordinance for the collection of a special expense fee

not to exceed \$25 for the issuance and service of a warrant of arrest for the offenses of failure to appear (Sec. 38.10, P.C.) and violate promise to appear (Sec. 543.009, T.C.).

This statute requires the warrant of arrest to be *executed*; just processing it does not count. The fee may not be collected if a defendant voluntarily surrenders to the court or appears after a courtesy letter from the court or peace officer. The statute requires that the fee be deposited into the municipal treasury. Some cities pay the fee to peace officers who serve the warrant outside their regular duty hours. Attorney General Opinion JM-462 (1986) addresses this issue. The opinion says in part that members of a regular police force may legally serve arrest warrants outside of their regular hours, but may not receive the warrant fee as compensation for such service. Cities must compensate officers as they otherwise would for overtime. Cities should visit with their city attorney regarding the payment of any fees to peace officers.

5. Fees Assessed upon Dismissal of Cases

a. For Driving Safety Course

In addition to the \$10 administrative fee charged when granting a driving safety course (or amount of the fine charged when granting a discretionary driving safety course), courts may charge a fee for obtaining a copy of the defendant's driving record from DPS when the defendant requests to take a driving safety course. The fee is based on the cost of using the state electronic internet portal (formerly Texas Online). If the court collects the fee, the court must send the money to the CPA quarterly.

b. For Teen Court

The judge may assess an optional fee not to exceed \$10 when a defendant requests to participate in a teen court program. This fee is retained by the city. Art. 45.052, C.C.P.

The court may assess another \$10 fee to cover the cost of administering the teen court. This fee is paid to the teen court program, but the program must account to the court for the receipt and disbursement of the fee.

If the court is located in a county on the Texas-Louisiana border, it may assess two \$20 fees instead of the \$10 fees. The \$20 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.

Article 45.052(g) of the Code of Criminal Procedure provides that a justice or municipal court may exempt a defendant from the requirement to pay court costs or other fees that are imposed by another statute. Thus, judges have authority to waive court costs and fees when granting a defendant the right to participate in a teen court program.

c. For Remedying Certain Defects

Statutes provide discretion for judges to collect fees in certain instances if a defendant remedies particular defects. Although none of the statutes say where the fees are deposited, they do not require the money to be sent to the State. Generally, most cities deposit the fees in the general revenue account.

Some courts mistakenly assess fees when dismissing the charge of failure to maintain financial responsibility. Although the court is required to dismiss the charge if the defendant had valid insurance or other proof of financial responsibility at the time of the arrest, there is no authority to assess a fee when dismissing the charge. For a discussion of these compliance dismissals or “probation-related” dismissals, see the *Traffic Law* chapter of this study guide.

6. Additional Fees that May be Assessed at Trial

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

a. For Summoning a Defendant

When a peace officer serves a summons on a defendant, upon conviction, the court must collect \$35 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.

b. For Summoning a Witness

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

c. Jury Fees

When a peace officer summons a jury and the defendant is convicted, the defendant must pay \$5 for the services of a peace officer. Art. 102.011(a)(7), C.C.P. Municipal courts must assess a jury fee of \$3 upon conviction by a jury, and this may apply even to a defendant who withdraws a request for a jury trial not earlier than 24 hours before the time of the trial. Art. 102.004, C.C.P.

d. For Summoning the Parents of a Juvenile

When a peace officer summons the parents of a juvenile to appear with their child in court, upon conviction, the court must assess a fee of \$35. Art. 102.011(a)(4), C.C.P.

e. Cost of Peace Officer Overtime when Testifying

Defendants must pay the costs 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 costs are 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.

Clerks should work with police departments to make sure the judge has information about officers’ salaries so that the judge may assess this cost. The court should 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.

f. Travel Costs to Convey Prisoner or Execute Process

Article 102.011(b) of the Code of Criminal Procedure 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.

7. 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 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 order may be enforced as contempt under Section 21.002(c) of the Government Code. Because a defendant may present a reason for not appearing for a jury trial, the court should set the issue for a show cause hearing to give the defendant an opportunity to present his or her reason.

The amount of this cost will vary depending upon the costs incurred by the court. The clerk should do an analysis of the costs for summoning a jury and have it available for the judge, so that the judge may 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.

8. Expunction Fees

A defendant who petitions the municipal court for an expunction must pay a \$30 fee when filing the petition with the municipal court. This fee is to be used to defray the cost of notifying state agencies of orders of expunction. Expunctions are discussed in detail in the *Children and Minors* chapter of the Level II Study Guide.

True or False

- 77. The municipal court in a city with a population greater than 850,000 is required to assess a fee of \$8 on parking convictions, depending on the amount set by city council. _____
- 78. The municipal court in a city with a population less than 850,000 is required to collect a fee of up to \$5 on parking convictions if the city orders the collection. _____
- 79. A city with a population of less than 850,000 is not required to order the collection of the parking fee for the Child Safety Fund. _____
- 80. When a defendant is convicted of a Subtitle C offense in a school-crossing zone, the

- defendant is required to pay \$25 for the Child Safety Fund. _____
81. A defendant convicted of passing a school bus does not have to pay \$25 to the Child Safety Fund unless the offense occurs within a school-crossing zone. _____
 82. A school-crossing zone is a reduced speed zone to facilitate the safe crossing of students in public schools only. _____
 83. Someone convicted of the offense of parent contributing to nonattendance does not have to pay the \$20 for the Child Safety Fund. _____
 84. 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. _____
 85. 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. _____
 86. The \$3 Traffic Fund court cost must be collected on all traffic convictions. _____
 87. The court must deposit money collected for the Traffic Fund into the city treasury. _____
 88. The court is required to assess the \$5 arrest fee when a defendant is convicted after a warrantless arrest. _____
 89. The court is required to assess the \$5 arrest fee when a defendant is convicted after being issued a citation. _____
 90. If a defendant is convicted of the offense of failure to appear, the court is required to assess the \$5 arrest fee. _____
 91. When a city police officer issues a citation and there is a conviction, the city must pay the arrest fee to the State. _____
 92. If a peace officer with statewide authority issues the citation and files it in municipal court, the city may keep all of the \$5 arrest fee. _____
 93. The warrant fee may be collected only when a peace officer executes or processes the warrant, *capias*, or *capias pro fine*. _____
 94. If an agency, other than the one issuing the warrant, executes the warrant, that agency may request the \$50 fee. _____
 95. When a peace officer with statewide authority arrests a person, the court is required to remit \$10 of the warrant fee to the State upon conviction. _____
 96. If a city wants to collect a fee not to exceed \$25 for failure to appear warrants, the city must adopt an ordinance authorizing the collection of the fee. _____
 97. Cities may pay peace officers the \$25 special expense fee for serving warrants outside their regular duty hours. _____
 98. The \$10 collected when a court grants a driving safety course must be deposited into the city treasury. _____
 99. When a defendant fails to complete a driving safety course, the court is required to refund the \$10 fee or allow the defendant to apply the fee to the fine. _____
 100. If the court collects a \$10 fee to be paid to the teen court program, the program does not have to account to the court for how it uses the money. _____

101. Judges have authority to waive court costs and fees when a defendant participates in a teen court program. _____
102. If a judge allows a defendant to reimburse a victim by paying in installments, the court can require the defendant to pay a \$12 fee. _____
103. When a peace officer serves a summons on a defendant, how much must the defendant pay if he or she is convicted? _____
104. When a peace officer serves a subpoena, how much must a defendant pay if he or she is convicted? _____
105. When a peace officer summons a jury, how much must a defendant pay if he or she is convicted? _____
106. What must a child pay for the peace officer's service of the summons to his or her parent?

107. What is the amount of the jury fee the court must assess when a defendant is convicted by a jury? _____

True or False

108. When an officer testifies during regular duty hours, the defendant, if convicted, must pay the costs of the officer's time testifying in court. _____
109. When an off-duty peace officer appears at the trial but does not testify, the court may not assess the costs of the peace officer appearing for the trial. _____
110. To assess the costs of an officer testifying, the judge may guess at the amount if the peace officer has not provided information to the court of his or her salary. _____
111. If a defendant fails to appear for a jury trial and the court assesses a cost for impaneling the jury, how may the defendant be released from paying these costs? _____

112. What are some items that a clerk may consider when preparing an analysis for costs incurred for summoning and impaneling a jury? _____

113. What cost must a petitioner pay when requesting an expunction from municipal court? _____

114. What cost may a municipal judge assess when a city police officer travels to serve municipal court warrants or capiases? _____

B. Local Fees Created by Ordinance

The Legislature has provided authority for cities to adopt ordinances to collect some fees. If a city does not adopt the appropriate ordinances, it cannot collect the fees.

There are fees that are added to cases as the result of the actions of defendants. The following information lists fees that courts have authority to, and must, in some situations, collect. Included with each fee is an explanation of the fee, reporting requirements, and if it is a dedicated fee, the specific purpose for which the city must use the money collected.

1. Juvenile Case Manager Fee

Article 102.0174 of the Code of Criminal Procedure provides city councils authority to create a juvenile case manager fund and may require a defendant convicted of a fine-only misdemeanor offense to pay a Juvenile Case Manager Fee not to exceed \$5. Prior to a 2011 amendment, a city could collect and accumulate these funds prior to the establishment of the position and the hiring of a juvenile case manager. Article 102.0174 was amended, effective September 1, 2011, to prohibit a local government from collecting the juvenile case manager fee if they do not employ a juvenile case manager.

The fee collected under Article 102.0174 (the juvenile case manager fee) is distinct from the Truancy Prevention and Diversion Fund fee collected per Article 102.015 of the Code of Criminal Procedure.

2. Building Security Fee

Article 102.017 of the Code of Criminal Procedure provides authority for cities to create a \$3 Building Security Fee. After the city adopts an ordinance to establish the fund, the court must assess the fee upon all convictions.

The money collected under this fund is dedicated to providing security services for municipal courts. It may be used only for security personnel, services, and items related to buildings that house the operations of municipal courts, including:

- the purchase or repair of x-ray machines and conveying systems;
- handheld metal detectors;
- walk-through metal detectors;
- identification cards and systems;
- electronic locking and surveillance equipment;
- bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;
- signage;
- confiscated weapon inventory and tracking systems;
- locks, chains, alarms, or similar security devices;
- the purchase or repair of bullet-proof glass; and
- continuing education on security for court personnel and security personnel.

In 2011, the expanded the list of approved uses for this fund to include warrant officers and related equipment. Sec. 102.107(d-1)(12).

Attorney General Opinion JC-0014 (1999) states that given the legislative history and the express terms of Article 102.017(d), security items that may be purchased are limited to the items in Article 102.017. However, in 1999, the Legislature amended Article 102.017 and added the word “including.” The Code Construction Act (Ch. 311, G.C.) says that the word “including” is a term of enlargement and not of limitation or exclusive enumeration, and use of the term does not create a presumption that components not expressed are excluded. Hence, the purchase of security items is not limited to the list, but must be specifically for court security.

3. Technology Fee

Article 102.0172 of the Code of Criminal Procedure provides authority for a governing body of a municipality to adopt an ordinance to establish a technology fund. The ordinance creates a fee in an amount not to exceed \$4 to be collected upon all convictions.

The fund must be dedicated to finance the purchase and maintenance of technological enhancements for the municipal court, including:

- computer systems;
- computer networks;
- computer hardware;
- computer software;
- imaging systems;
- electronic kiosks;
- electronic ticket writers; and
- docket management systems.

The fund is to be administered by or under the direction of the governing body of the municipality. Again, the Code Construction Act (Ch. 311, G.C.) defines “include” and “including” as terms of enlargement and not of limitation or exclusive enumeration. Hence, the purchase of technological enhancements is not limited to the list of items described above.

True or False

115. The Juvenile Case Manager Fee can be used to finance a juvenile case manager or a teen court coordinator. _____
116. The Building Security Fee must be established by ordinance before the municipal court may collect it. _____
117. The purpose of the Building Security Fee is to provide all city buildings with security. _____
118. The city must use the Building Security Fee to purchase security items for the court. _____
119. The Technology Fee may only be assessed if the city establishes the fund by ordinance. _____
120. The Technology Fee may not be less than \$4. _____
121. The Technology Fee may be used to pay for maintenance of court technology. _____

PART 7
FINES AND COSTS DIVIDED BETWEEN STATE AND CITY

Some of the fines and costs collected by the municipal court are divided between the State and the city. In these instances, if a court prorates court costs because of a partial payment, the State's portion does not take precedence over the city's portion.

A. Restitution Fee

If the court orders reimbursement to a victim to be made in specified installments, the court may require the defendant to pay a one-time restitution fee of \$12. Six dollars of the restitution fee is retained by the city and the other half must be remitted to the State for the Crime Victims Compensation Fund. Art. 42.037(g), C.C.P.

B. Time Payment Fee

Municipal courts are required to collect a \$25 fee from a defendant who pays any part of the fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, costs, or restitution. The fee is to be deposited in the municipal treasury. Sec. 133.103, L.G.C.

Each quarter, treasury custodians are required to send 50 percent of the time payment fee to the CPA. The other 50 percent is retained by the city. The city is required to use 10 percent of the fee (\$2.50) for improving the efficiency of the administration of justice. The other \$10 may be used by the city for any lawful purpose.

C. 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 remit the court costs and 50 percent of the fine to the Comptroller unless the offense occurred within 20 miles of an international border, in which event, the entire amount may be retained by the city. The city must use the money for road maintenance. Sec. 621.506(g), T.C. The statute does not say how frequently the fine money must be remitted. The Comptroller's Office has set the reporting cycle to coincide with the quarterly cycle for the basic court costs and fees.

D. Excess Motor Carrier Fines

Only certain cities may enforce excess motor carrier violations under Chapter 644 of the Transportation Code and those cities may only keep part of the revenue generated. To enforce these types of violations, municipal police officers must be certified by DPS. Police officers of any of the following municipalities are eligible to apply for the certification:

- a municipality with a population of 50,000 or more;
- a municipality with a population of 25,000 or more, any part of which is located in a county with a population of 500,000 or more;
- a municipality with a population of less than 25,000 any part of which is located in Harris County and contains or is adjacent to an international port;

- a municipality with a population of at least 34,000 that is located in a county that borders two or more states;
- a municipality in any county bordering Mexico;
- a municipality with a population of less than 5,000, that is located adjacent to a bay connected to the Gulf of Mexico and in a county adjacent to Harris County;
- a municipality that is located within 25 miles of an international port and in a county that does not contain a highway that is part of the national system of interstate and defense highways that is adjacent to Harris County; or
- a municipality with a population of less than 8,500 that is the county seat and contains a highway that is part of the national system of interstate and defense highways.

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 of Chapter 644 in the preceding fiscal year, as determined by the CPA 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 CPA estimates would be the municipality's actual expenses for enforcement of Chapter 644 during the year. The municipality must send to the CPA the amount of the fines that exceeds the limit imposed by the CPA. Sec. 644.102, T.C.

Cities that participate in the enforcement of excess motor carrier violations must complete a worksheet provided by the CPA used to calculate the costs of enforcement. To get information regarding this worksheet, the court should contact the Local Government Assistance Division of the State Comptroller's Office at www.comptroller.texas.gov.

122. If the court orders a defendant to pay a victim restitution in installment payments, what is the amount of the restitution fee that the court may require? _____
123. How must the court account for the restitution fee? _____

124. When is a time payment fee required to be collected? _____
125. How is the time payment fee disbursed? _____

True or False

126. 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. _____
127. When a city enforces excess motor carrier violations, 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 FINES

A. Disposition of Traffic Fines

Section 542.401 of the Transportation Code requires cities to expend fine money collected for convictions of Title 7 of the Transportation Code offenses for:

- construction and maintenance of roads, bridges, and culverts; and
- enforcement of laws regulating the use of highways by motor vehicles.

Because courts collect fines for offenses in many different statutes, clerks should keep a separate accounting of fine money collected under Title 7, since statutes require cities to budget this money for certain uses. This type of information needs to be reported to the city accounting department and the person responsible for preparing the budget.

B. Excess Highway Fines

The excess fines law is found Subtitle C, Section 542.402(b) of the Transportation Code. For cities with a population of fewer than 5,000, the Legislature restricts the amount of revenue that may be retained from offenses under Title 7 (Chs. 501-750) of the Transportation Code. The law basically keeps small cities from collecting too large a portion of their budget from traffic fines.

The law reads, “In each year, a municipality having a population of less than 5,000 may retain, from fines collected from violations of this title and from special expenses collected under Article 45.051, Code of Criminal Procedure, in cases in which a violation of this title is alleged, an amount equal to 30 percent of the municipality’s revenue for the preceding fiscal year from all sources other than federal funds and bond proceeds.” The restriction applies to not only the fines collected for offenses charged under Title 7, but also to the special expenses collected under Article 45.051 of the Code of Criminal Procedure when deferred is granted for Title 7 violations. Sec. 542.402, T.C.

To determine if a city falls within this restriction, the city must look to the most recent federal decennial census. If the city population is now 5,000 or more, but was under 5,000 when the census was taken, the law would apply. However, if the city’s population is now under 5,000 but the census shows the population 5,000 or more, the law would not apply.

Then the city’s previous year’s revenues are totaled, and federal funds and bond proceeds are subtracted. When the fines and special expenses for offenses charged under Title 7 reach 20 percent, the court must file a report with the CPA. Failure to report may cause the city to pay for an audit conducted by the CPA. The report must be submitted to the CPA within 120 days after a city’s fiscal year ends. The report 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 show the total amount collected from Title 7 offense fines and special expenses.

The city may keep all the traffic fines and special expenses under Article 45.051 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 and special expenses for offenses charged under Title 7 equal 30 percent of the budget, all but \$1 of each fine or special expense 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.

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, E.C.

D. Collection Improvement Programs

Cities with a population of 100,000 or greater are required to develop and maintain a program to improve the collection of court costs, fees, and fines imposed in criminal cases. Art. 103.0033, C.C.P.

The program must consist of the following:

- a component that conforms with a model developed by OCA that is designed to improve in-house collections; and
- a component designed to improve collection balances more than 60 days past due, which may be implemented by entering into a contract with a private attorney or public or private vendor in accordance with Article 103.0031 of the Code of Criminal Procedure.

The Office of Court Administration may use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs. Each city shall at least annually submit to OCA a written report that includes updated information regarding the program. The report must be in a form approved by OCA. The OCA is required to periodically audit cities to verify the information reported and confirm that the city is conforming with the requirements of the program. Art. 103.0033, C.C.P.

Section 133.058(e) of the Local Government Code provides that a city may not retain court cost handling fees if the city is not conforming with its collection improvement program.

True or False

128. The Transportation Code requires all cities to allocate fine money collected for traffic convictions in a certain manner in the city's budget. _____
129. Cities with a population under 5,000 must pay the State all but \$1 of the fines and special expenses under Article 45.0511 of the Code of Criminal Procedure collected for offenses under Title 7 of the Transportation Code after fines and special expenses reach 30 percent of their budget. _____
130. When a parent is convicted of contributing to nonattendance, the city must pay the fine to the school district. _____

131. Cities with a population of 100,000 or greater are required to develop and maintain a program to improve the collection of court costs, fees, and fines. _____
132. The city is required to submit annually a written report about its collection program to the Attorney General's Office. _____
133. If a city does not conform with its collection program, the city cannot retain its 10 percent handling fee or 50 percent of the time payment fee. _____

PART 9 CITY CONTRACTS

A. With the Department of Public Safety

Cities may contract with the 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 an additional \$30 fee from defendants. Twenty dollars of the fee is remitted to the State; \$6 is paid to OmniBase, the vendor that DPS has contracted with; and the city keeps \$4.

The court must assess an administrative fee of \$30 for each violation for which the person failed to appear for a complaint or citation unless the defendant is acquitted of the charges for which the person failed to appear or failed to pay.

In Rule 15.119 of Title 37 of the Texas Administrative Code, DPS defines acquittal to mean "an official fact-finding made in the context of the adversary proceeding by an individual or group of individuals with the legal authority to decide the question of guilt or innocence... [A]cquittal also includes a discharge by the court upon proof of actual innocence." This would include the offense of failure to maintain financial responsibility or failure to display driver's license and other defenses to prosecution. Upon dismissal of these two charges, the court would not collect the \$30 fee and would report these dismissals as acquittals to OmniBase.

The \$30 fee is accounted for in the following manner:

- the fee shall be deposited into the city treasury;
- the account may be interest-bearing (city may keep interest);
- the city must report the amount of funds received and disbursed annually to the Comptroller and DPS;
- the city must remit \$20 to Comptroller on the quarterly report; and
- the city retains \$10 (\$6 is paid to the vendor) and deposits it in the city's general fund.

B. With the Department of Motor Vehicles

Cities may contract with the DMV and their county tax assessor-collector to deny vehicle registration renewal to persons who fail to appear or pay on certain traffic warrants. Ch. 702, T.C. Since 2011, cities can assess a \$20 fee on each person who is reported to the "Scoff Law" program. The city must send the entire \$20 to the county tax assessor-collector and may not retain any of the fee.

C. Private Collection Contracts

Article 103.0031 of the Code of Criminal Procedure provides authority for a city to contract for collection services. The vendor's fee is based on the amount of fine and costs owed for a failure to pay or the fine eventually assessed by the court or jury for a failure to appear.

Contracts with a public or private vendor or attorney must specify a 30 percent collection fee or it is not authorized by Article 103.0031. Consequently, if the fee is for an amount other than 30 percent, it cannot be assessed against a defendant and must be paid by the city. 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) 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

134. 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. _____
135. When a defendant returns to court after being denied renewal of his or her driver's license, the defendant must pay the court an additional \$30 court cost unless the defendant is acquitted. _____
136. 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 must collect upon conviction a \$30 fee. _____
137. If the defendant failed to appear, a vendor's fee is based on the amount of fine eventually assessed by the court or jury. _____
138. Vendor contracts can specify any amount of collection fee. _____
139. If a defendant makes a partial payment, the vendor is paid after local and state court costs are paid. _____

APPENDIX A: COURT COSTS CHART

COURT COSTS

For conviction of offenses committed on or after September 1, 2015

OFFENSE/DESCRIPTION	State CF	State JSF	State IDF	State JRF	State TPDF	State STF	Local TFC	Local CS	Total
Municipal Ordinance									
• Parking (authorized by Section 542.202 or Chapter 682, Transportation Code)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	*1	*1
• Pedestrian	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
• Other city ordinances not categorized above	40.00	6.00	2.00	4.00	2.00	N/A	N/A	N/A	54.00
State Law									
✦ Transportation Code, Rules of the Road (Chapters 541-600)									
• Parking and Pedestrian (in school crossing zone)	N/A	N/A	N/A	N/A	N/A	30.00	3.00	25.00	58.00
• Parking and Pedestrian (outside school crossing zone)	N/A	N/A	N/A	N/A	N/A	30.00	3.00	N/A	33.00
• Passing a School Bus (Section 545.066)	40.00	6.00	2.00	4.00	2.00	30.00	3.00	25.00	112.10 ^{*2}
• Other Rules of the Road offense in a school crossing zone	40.00	6.00	2.00	4.00	2.00	30.00	3.00	25.00	112.00 ^{*2}
• Other Rules of the Road offense outside a school crossing zone	40.00	6.00	2.00	4.00	2.00	30.00	3.00	N/A	87.00 ^{*2}
✦ Parking and Pedestrian Offense (not under the Rules of the Road)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
✦ Education Code									
• Parent Contributing to Nonattendance (Section 25.093)	40.00	6.00	2.00	4.00	2.00	N/A	N/A	20.00	74.00
✦ All other fine-only misdemeanors not mentioned above	40.00	6.00	2.00	4.00	2.00	N/A	N/A	N/A	54.00 ^{*2}

For the purpose of assessing, imposing, and collecting most court costs and fees, a person is considered to have been convicted if, pursuant to Section 133.101 of the Local Government Code or the specific statute authorizing the court cost, either: a judgment, sentence or both are imposed on the person; or the person receives a DSC, deferred disposition, or some other deferral (see Articles 45.051-45.053 of the Code of Criminal Procedure). In contrast, this expanded definition of conviction does not appear in the statute establishing the Juror Reimbursement Fee.

***1 Additional Child Safety Fund costs:**

- \$2-\$5 court cost for cities with population greater than 850,000 that have adopted appropriate ordinance, regulation, or order (mandatory).
- Up to \$5 court cost for cities with population less than 850,000 that have adopted appropriate ordinance, regulation, or order (optional).

***2 MVF:** Add 10¢ court cost on all moving violations. Moving violations are found in Title 37, Section 15.89(b) of the Texas Administrative Code. Note that some moving violations are in codes other than the Transportation Code. Because passing a school bus is a moving violation, the 10¢ has already been calculated into the total.

Abbreviation	Name of Cost/Fee	Legal Reference	Applies To	Portion Remitted, Retained
CF	Consolidated Fee	Section 133.102, Local Government Code	All but parking and pedestrian offenses	90% State, 10% City If timely remitted on quarterly report
JSF	Judicial Support Fee	Section 133.105, Local Government Code	All but parking and pedestrian offenses	90% State, 10% City If timely remitted on quarterly report <ul style="list-style-type: none"> Portion retained by city must be used to promote the efficient operation of the court and the investigation, prosecution, and enforcement of offenses within the court's jurisdiction.
IDF	Indigent Defense Fund	Section 133.107, Local Government Code	All but parking and pedestrian offenses	90% State, 10% City If timely remitted on quarterly report
JRF	Juror Reimbursement Fee	Article 102.0045, Code of Criminal Procedure	All but parking and pedestrian offenses	90% State, 10% City If timely remitted on quarterly report
TPDF	Truancy Prevention and Diversion Fund	Article 102.015, Code of Criminal Procedure	All but parking and pedestrian offenses	50% State, 50% City <ul style="list-style-type: none"> If city is operating, establishing, or attempting to establish a JCM program; otherwise 100% to State Remitted on quarterly report Must be used to operate or establish a JCM program
STF	State Traffic Fine	Section 542.4031, Transportation Code	Rules of the Road offenses (Chapters 541-600, Transportation Code)	95% State, 5% City If timely remitted on quarterly report
TFC	Local Traffic Fee	Section 542.403, Transportation Code	Rules of the Road offenses (Chapters 541-600, Transportation Code)	100% City
CS	Child Safety Fund	Article 102.014, Code of Criminal Procedure	Rules of the Road offenses occurring in a school crossing zone; passing a school bus; failure to attend school; parent contributing to nonattendance; some city ordinance parking violations	100% City <ul style="list-style-type: none"> Must be deposited in municipal child safety trust fund in municipalities with population greater than 850,000 For others, shall first fund school crossing guard program with excess expended for programs designed to enhance public safety and security
MVF	Moving Violation Fee	Article 102.022, Code of Criminal Procedure	Moving violations (Title 37, Section 15.89(b) of the Texas Administrative Code)	90% State, 10% City If timely remitted on quarterly report

FEES (add the following whenever they apply):

- ✦ The following fees are collected upon conviction for **services performed by a peace officer** (Article 102.011 of the Code of Criminal Procedure and Section 133.104 of the Local Government Code):
 - \$5 arrest fee for issuing a written notice to appear in court following the defendant's violation of a traffic law, municipal ordinance, penal law, or for making an arrest without a warrant; when service is performed by a peace officer employed by the State, 20% is sent to the State on the quarterly report.
 - \$50 warrant fee for executing or processing an issued arrest warrant, *capias*, or *capias pro fine*; when service is performed by a peace officer employed by the State, 20% is sent to the State on the quarterly report; when service is performed by another agency, that agency can request the amount of the fee.
 - \$5 for serving a subpoena.
 - \$5 for summoning a jury.
 - \$35 for serving any other writ (includes summons for a defendant or a child's parent).
 - Other costs: costs for peace officer's time testifying off duty or mileage for certain transports.
- ✦ Fees created by city ordinance
 - **Juvenile Case Manager Fee:** up to \$5 on every conviction if governing body has passed required ordinance establishing a juvenile case manager fund and has hired a juvenile case manager; to be used only to finance the salary, benefits, training, travel expenses, office supplies, and other necessary expenses of the juvenile case manager (Article 102.0174 of the Code of Criminal Procedure).
 - **Municipal Court Building Security Fund:** \$3 on every conviction if governing body has passed required ordinance establishing building security fund; to be used only for security personnel, services, and items related to buildings that house the operation of the municipal court (Article 102.017 of the Code of Criminal Procedure).
 - **Municipal Court Technology Fund:** up to \$4 on every conviction if governing body has passed required ordinance establishing the municipal court technology fund; to be used only to finance the purchase of or to maintain technological enhancements for the municipal court (Article 102.0172 of the Code of Criminal Procedure).
 - **Special Expense Fee:** up to \$25 for execution of a warrant for failure to appear or violation of promise to appear if governing body has passed required ordinance (Article 45.203 of the Code of Criminal Procedure).
- ✦ **Jury Fees**
 - \$3.00 fee collected upon conviction when a case is tried before a jury or when the defendant requested a jury trial and then withdrew the request within 24 hours of the trial setting (Article 102.004 of the Code of Criminal Procedure).
 - Actual costs incurred for impanelling a jury when the defendant fails to appear for a jury trial (Article 45.026 of the Code of Criminal Procedure).
- ✦ **Time Payment Fee:** \$25 fee on conviction if defendant pays any part of the fine, court costs, fees, or restitution on or after the 31st day after the date judgment is entered; 50% is remitted to the State on the quarterly report; 50% stays with the city; \$2.50 of that shall be used for the purpose of improving the efficiency of the administration of justice and the city shall prioritize the needs of the judicial officer who collected the fee (Section 133.103 of the Local Government Code).
- ✦ **Restitution Fee:** \$12 optional fee if defendant pays restitution in installments; 50% remitted to the State for the crime victims' compensation fund (Article 42.037 of the Code of Criminal Procedure).
- ✦ Contractual enforcement options:
 - **OmniBase Fee:** \$30 for failure to appear or failure to satisfy a judgment for any fine-only offense if city has contracted with the Department of Public Safety to deny renewal of driver's licenses; 66% is sent to the State on the quarterly report; 33% is retained by the city out of which OmniBase is paid (Sections 706.006 and 706.007 of the Transportation Code).
 - **Scofflaw Fee:** \$20 optional fee for failure to appear or satisfy a judgment on an outstanding warrant for violation of a traffic law if the city has contracted with the Department of Motor Vehicles to deny renewal of vehicle registration; entire fee goes to the county tax-assessor (Section 702.003 of the Transportation Code).
 - **Third Party Collection Fee:** 30% of the unpaid fines, fees, costs, restitution, or forfeited bonds if the city has a contract with a third party collections agency and the amount is more than 60 days past due or more than 60 days have elapsed since the defendant's failure to appear (Article 103.0031 of the Code of Criminal Procedure).

ANSWERS TO QUESTIONS

PART 1

- Q. 1. True (the court is required to submit traffic conviction reports to DPS).
- Q. 2. True.
- Q. 3. True.
- Q. 4. False (courts do report when a defendant completes a driving safety course, not a deferred disposition).
- Q. 5. True.
- Q. 6. True.
- Q. 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.
- Q. 8. It is effective 11 days after the judgment is entered.
- Q. 9. The DL-115 (formerly DIC-15).
- Q. 10. Not to exceed six months.
- Q. 11. The DL-115 (formerly DIC-15).
- Q. 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.
- Q. 13. The court must report that deferred disposition was granted and the date granted.
- Q. 14. The court is required to report the acquittal to DPS.
- Q. 15. Courts must report a conviction of this offense in the same manner as traffic offenses.
- Q. 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.
- Q. 17. The court must order DPS to suspend the minor’s driver’s license or deny issuance of a driver’s license if the minor does not have one for a period of time not to exceed 180 days. The order must specify the period of the suspension or denial. The court uses the DL-115 (formerly DIC-15) form to report the failure to complete the tobacco awareness program.

- Q. 18. 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.
- Q. 19. 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.
- Q. 20. True.
- Q. 21. True.
- Q. 22. True.
- Q. 23. False (the court must submit the report within seven days of the judgment).
- Q. 24. False (the defendant remains convicted of the traffic offense, even if the fine was discharged through community service).
- Q. 25. 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.)
- Q. 26. 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.
- Q. 27. Not less than 90 days or more than one year.
- Q. 28. Courts are required to report on DPS form DIC-21.
- Q. 29. The date that the defendant completed the driving safety course.
- Q. 30. The date the defendant completed the teen court program.
- Q. 31. 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.
- Q. 32. 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.
- Q. 33. 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.
- Q. 34. 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.

- Q. 35. 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.
- Q. 36. 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).
- Q. 37. The suspension or denial cannot exceed 365 days.
- Q. 38. The municipal court does not report the conviction to DPS until it is final.
- Q. 39. The court only reports a conviction if the defendant is convicted in the new trial.

PART 4

- Q. 40. The OCA is a state agency and operates under the supervision of the Supreme Court.
- Q. 41. The mission of OCA is to provide administrative assistance and technical support to all of the courts in the State.
- Q. 42. The Council studies methods to simplify judicial procedures, expedite court business, and better administer justice. It examines the work accomplished by the courts and submits recommendations to the Legislature, the Governor, and the Supreme Court.
- Q. 43. 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.
- Q. 44. Within 30 days after the date of the person's election or appointment.
- Q. 45. 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.
- Q. 46. 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.
- Q. 47. The Supreme Court and the Court of Criminal Appeals are not required to submit monthly reports.
- Q. 48. Court activity for each month must be reported to OCA by the 20th day following the end of the month being reported.
- Q. 49. 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.

Q. 50. If a court does not have activity in a section of the monthly report, the court should not leave the space blank, but should show “zero” activity.

PART 5

Q. 51. No.

Q. 52. 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.

Q. 53. Court cost reports must be filed with the State by the last day of the month following each calendar quarter.

Q. 54. The city may keep the interest if it reports timely.

Q. 55. Cities may not keep the handling fee but must remit it to the State.

Q. 56. Courts are required to keep separate records of the funds.

Q. 57. Some cities are required to remit court costs and fees electronically. If \$250,000 or more in court costs and fees are remitted to the Comptroller in a state fiscal year (September through August), payments of \$10,000 or more must be made by electronic funds transfer in the following fiscal year. If a city is affected by this rule, the Comptroller must notify the city no less than 60 days before the first payment is required to be made. Sec. 404.095, G.C., and Section 3.9, Part I, Title 34, T.A.C. A city may not be required to remit electronically, but may voluntarily remit in this manner. The reporting is always manual.

Q. 58. False (collected money goes first to costs).

Q. 59. False.

Q. 60. False (collected money is prorated among all costs).

Q. 61. False.

Q. 62. False.

Q. 63. True.

Q. 64. True.

Q. 65. All municipal court proceedings cease.

Q. 66. No, because the conviction is not final—it is appealed.

Q. 67. A judge may waive the fine and costs when a defendant defaults in payment of fine, is indigent or was a child at the time of the offense, and performing community service would be a hardship, or when the defendant receives a deferral and completes a teen court program.

- Q. 68. If the new legislation imposes a new or changes an existing court or fee, the cost or fee does not take effect until January 1st of the year following the legislative session.
- Q. 69. The treasurer must still file a report with the Comptroller and report that no fees were collected.
- Q. 70. False (on all fine-only offenses other than parking and pedestrian).
- Q. 71. True.
- Q. 72. False (on all Rules of the Road offenses).
- Q. 73. False (the city keeps five percent).
- Q. 74. False (on all fine-only offenses other than parking and pedestrian).
- Q. 75. True.
- Q. 76. False (every municipal court must collect the \$2 cost; having a juvenile case manager program only affects whether the city gets to retain any of the cost).

PART 6

- Q. 77. False.
- Q. 78. False.
- Q. 79. True.
- Q. 80. True.
- Q. 81. False.
- Q. 82. False.
- Q. 83. False.
- Q. 84. True.
- Q. 85. True.
- Q. 86. False (on all Rules of the Road offenses).
- Q. 87. True.
- Q. 88. True.
- Q. 89. True.
- Q. 90. False (the offense of failure to appear is initiated by complaint, not a citation).
- Q. 91. False.
- Q. 92. False (the court must send \$1 to the State).
- Q. 93. True.
- Q. 94. True.
- Q. 95. True.
- Q. 96. True.
- Q. 97. False (the fee should go into the city's general revenue fund).
- Q. 98. True.
- Q. 99. False.
- Q. 100. False.

- Q. 101. True.
- Q. 102. True.
- Q. 103. Thirty-five dollars.
- Q. 104. Five dollars.
- Q. 105. Five dollars.
- Q. 106. Thirty-five dollars.
- Q. 107. Three dollars.
- Q. 108. False.
- Q. 109. True.
- Q. 110. False.
- Q. 111. For good cause at a show cause hearing.
- Q. 112. 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.
- Q. 113. Thirty dollars.
- Q. 114. The judge may assess all necessary and reasonable expenses for meals and lodging incurred by peace officer and 29 cents a mile for travel.
- Q. 115. False (only a juvenile case manager).
- Q. 116. True.
- Q. 117. False.
- Q. 118. True.
- Q. 119. True.
- Q. 120. False (it is an amount not to exceed \$4).
- Q. 121. True.

PART 7

- Q. 122. Twelve dollars.
- Q. 123. The court must deposit \$6 in the city's general revenue account and remit \$6 to State for the Crime Victim's Compensation Fund.
- Q. 124. The time payment fee is due from a defendant who pays any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered.
- Q. 125. Each quarter, the city must send 50 percent of the time payment fee to the State Comptroller. The other 50 percent is retained by the city. The city is required to use 10 percent of the fee (\$2.50) for improving the efficiency of the administration of justice. The other 40 percent (\$10) may be used by the city for any lawful purpose.
- Q. 126. True.
- Q. 127. True.

PART 8

- Q. 128. True.
- Q. 129. True.
- Q. 130. False (the city must pay one half of the fine to the school district).
- Q. 131. True.
- Q. 132. False (the report goes to the Office of Court Administration).
- Q. 133. True.

PART 9

- Q. 134. True.
- Q. 135. True.
- Q. 136. False (the court may assess a \$20 fee).
- Q. 137. True.
- Q. 138. False.
- Q. 139. False.