

PREFACE

About this Book

This book is one of the first publications offered by TMCEC. It is an important resource for preparing to take the clerk certification test. However, it is also a reference for court clerks, judges, and prosecutors.

The Fourteenth Edition (2024-2025)

This edition reflects changes from the 88th Legislative Session. While there were many statutory changes from this session, two significant bills impacted this book and TMCEC's other publications. H.B. 4504, which goes into effect January 1, 2025, is the Texas Legislative Council's complete non-substantive revision of Chapter 45 of the Code of Criminal Procedure. On January 1, 2025, most of Chapter 45 will be repealed and replaced by the re-organized Chapter 45A. As the effective date occurs between publication cycles, TMCEC's publications include dual citations for every citation to an Article in Chapter 45. Each reference to an article in Chapter 45 will be represented with the current Chapter 45 article, followed by the corresponding future Chapter 45A article. The citations will appear in the following format: Chapter 45 Article/Chapter 45A Article, C.C.P. For example, Art. 45.057/45A.457, C.C.P. Please note that Chapters 2 and 55 also underwent the revision process created by H.B. 4504. This book incorporates dual citations to articles in 2A, 2B, and 55A as well.

The other bill is H.B. 3186, the Texas Youth Diversion and Early Intervention Act. While this bill goes into effect on January 1, 2024, it only applies to offenses committed on or after January 1, 2025. At this time, most of TMCEC's youth diversion resources reside online (www.tmcec.com/youth-diversion), but some references to changes made by H.B. 3186 are present in this edition.

Because many clerks not only use this book to study for the certification test, but also as a quick reference, practice notes continue to be added throughout the texts. These can be found in shaded boxes titled "Practice Note" within the chapters. Some are provided to give clerks some additional background in the subject matter, and some provide suggested practices.

This book includes an appendix. The glossary of defined terms has been expanded in Appendix A and quick legal reference cards have been added to Appendix B. These are by no means meant to be a comprehensive dictionary; rather, they are meant to be another resource to assist in understanding certain concepts. These resources are also intended to give new court clerks foundational knowledge.

Court Clerk Certification Program

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

Participation in the certification program consistently increases each year. There has been nearly a 45% increase in participation in the last 10 years. Certification at the highest level, Level III, has almost tripled in the last 10 years. It is highly recommended that new court clerks, or those that are not yet certified, participate in the program.

How to Use the Study Guide

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

Visual Signals

A number of visual signals, or graphic representations, indicating an important concept or helping to explain a point of law, are included in the text. The meanings of each are below:

Legal Advice

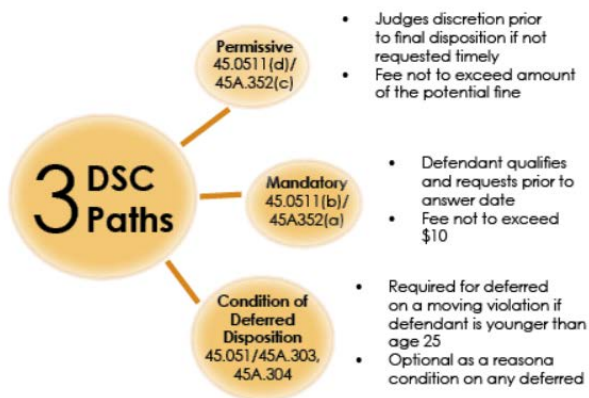
Legal advice is a statement that interprets some aspect of the law, recommends a course of conduct, or applies the law to specific facts.

This type of visual is meant to indicate a definition of a term or point out a specific statute that is important to note. Every definition is also included in the glossary, but the visual is meant to highlight the term while reading the text.

Ex parte Quintanilla, 207 S.W.2d 377 (Tex. Crim. App. 1947)

Municipal courts are state courts and are governed by the same rules of practice as are other state courts.

This type of visual indicates important caselaw and is meant to help explain where a legal concept or judicial decision originated. Generally, the quotes are taken directly from the court case, although some have been edited in the interest of space and brevity. Additional case citations are also included within the text.



This type of visual is meant to outline concepts, especially for more visual learners. They have been created to mirror what a student may create in his or her notes to understand a broad legal concept or process within his or her mind.

Not Legal Advice

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

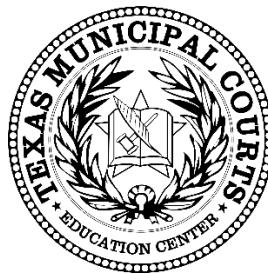
This book is intended to be a guide; and as such, it is not a substitute for thorough legal research and the advice of legal counsel or your police advisor. It is not intended to provide legal advice. If you are using this book as a secondary reference, this book should be the starting point to your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

Acknowledgements

TMCEC is thankful for the efforts of many individuals throughout the years who have made suggestions, offered edits, or provided opinions on the use of this book. This includes the original efforts of Margaret Robbins and the court clerks that worked together to create this book.

Special thanks to the TMCEC staff that contributed to this edition: Mark Goodner, Leandra Quick, Regan Metteauer, Ned Minevitz, Elaine Riot, Ryan Kellus Turner, and Thomas Velez.

TMCEC would like to recognize and thank Berkley Breaux and Isis Woods, law students from the University of North Texas at Dallas School of Law, for their legal research and review for this project.



Municipal Court Guide: Level I

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