



OFFICE OF COURT ADMINISTRATION

CARL REYNOLDS
Administrative Director

TO: District Clerks
County Clerks

FROM: Mary Cowherd
Deputy Director and Director of Research and Court Services

DATE: May 10, 2010

RE: Supreme Court Adopts Texas Rule of Civil Procedure 78a and
Civil Case Information Sheet

This is to notify you that the Texas Supreme Court has adopted Texas Rule of Civil Procedure 78a, which provides that a civil case information sheet must accompany the filing of: 1) an original petition; and 2) a post-judgment motion for modification or enforcement in a case arising under the Family Code. The rule will take effect September 1, 2010, with any modifications made after public comments are received. Attached is a copy of the Supreme Court's order. The order may also be found at: <http://www.courts.state.tx.us/oca/required.asp>.

The Supreme Court is accepting public comments regarding Rule 78a on or before **August 2, 2010**. Comments should be directed to Kennon L. Peterson, Rules Attorney, at P.O. Box 12248, Austin TX 78711, or kennon.peterson@courts.state.tx.us.

Also, the Supreme Court has promulgated the civil case information sheet, as approved by the Texas Judicial Council, to be used pursuant to Rule 78a. Please note that the Supreme Court did not make any changes to the civil case information sheet approved by the Judicial Council, which I sent to you on April 21. It should also be noted that the Supreme Court is not accepting comments regarding the case information sheet, only the rule.

The State Bar and others will be contacted in an effort to notify Texas attorneys and the public about Rule 78a and the new civil case information sheet. As part of that education effort, we would very much appreciate it if you would post the attached order, including the new civil case information sheet, on your website and/or in a prominent place in your office.

Questions and Answers Regarding the Civil Case Information Sheet

I have received several questions regarding the new civil case information sheet. Below for your information are the questions and the answers to them:

- 1) We currently use a case information sheet (also known as a cover sheet). When should we begin using the new civil case information sheet?**

If you currently use a case information sheet, you should start using the new civil case information sheet as soon as possible, but no later than September 1, 2010.

If you do not currently use a case information sheet, you must start using the new civil case information sheet on September 1, 2010.

Attached are the instructions for the civil case information sheet, which were approved by the Judicial Council last month. Both the civil case information sheet and the instructions may be found at: <http://www.courts.state.tx.us/oca/required.asp>.

Please remember that the civil case information sheet is a standard statewide form that can be augmented but not reduced by local rule. That is, no items can be eliminated from the standard statewide form. If a county wants to add case type categories or other items, the county must do so by local rule. Any augmentation must be on a separate form.

Also, the Title IV-D agency (i.e., the Office of the Attorney General's Child Support Division) and any other mass filer in multiple counties will be exempt from providing the information for any items added to the standard statewide form by local rule.

- 2) There are more case types categories listed on the civil case information sheet than are reported in the monthly court activity reports. Where are we supposed to report these additional case type categories on the monthly reports?**

The Office of Court Administration has prepared charts for the clerks indicating where the case type categories listed on the civil case information sheet should be reported on the monthly reports. The charts may be found at:

<http://www.courts.state.tx.us/tjc/docs/DistComparison-NewCurrentRpts.xls>.

- 3) Are we required to retain a civil case information sheet in the case file or can we throw it away once the information has been entered into our case management system?**

The civil case information sheet is considered a "case record" or "case paper." Clerks should follow the retention period provided for case records or papers on the record retention schedule used by their office. The records retention schedule used by a clerk will either be a county specific schedule that includes their records and that has been approved by the Texas State Library and Archives Commission (State Library) or the local retention schedules provided by the State Library for records of district clerks (Local Schedule DC) or records of county clerks (Local Schedule CC). Additional information regarding the local retention schedules is available online at: <http://www.tsl.state.tx.us/slr/recordspubs/localretention.html>.

If a clerk has an electronic storage procedure for case files that is consistent with the requirements of Chapter 204 or 205 of the Local Government Code and rules adopted by the State Library, the civil case information sheet can be destroyed when the case records or papers to which the civil case information sheet pertain are destroyed.

4) Will a Spanish version of the civil case information sheet and instructions be provided?

The civil case information sheet and instructions are currently being translated into Spanish. We will notify and send the clerks the Spanish version of the case information sheet and instructions as soon as they are completed.

New Monthly Court Activity Reports

As you are aware, for some items on the new monthly court activity reports, the clerks may not have the required information and will have to rely on their judge(s) or the court coordinator(s) to provide it to them. Examples of that information include the number of:

- civil cases ordered to or from arbitration or mediation;
- probate and mental health hearings held;
- regular status hearings held in drug courts, family violence courts, or other specialized courts; and
- release or transfer hearings held (determinate sentence proceedings) in juvenile cases.

If you have not already done so, we strongly encourage you to meet with your judge(s), court coordinator(s) and case management software provider to determine the best methods to collect, compile, and report the required information. The arrangements and processes developed for obtaining the information from the courts will be unique in each county.

We will let you know whether the Supreme Court makes any modifications, resulting from public comments received, to Texas Rule of Civil Procedure 78a.

Please contact me if you have any questions at mary.cowherd@courts.state.tx.us or 512/463-1629.

cc: District Judges
Statutory County Court Judges
County Judges

attachments