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# Clerks of Court

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Dear Reader:

The following document was created from the CTAS website ([ctas.tennessee.edu](http://ctas.tennessee.edu)). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

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# Qualifications-Clerks of Court

Reference Number:

CTAS-76

The office of clerks of court does not carry any qualifications beyond the **general qualifications** for **county offices**.

## Qualifications

Reference Number:

CTAS-2152

General qualifications of officeholders are located in the Tennessee Code Annotated, which provides that all persons 18 years old and over, who are citizens of the United States and of Tennessee, and who meet certain residency requirements are qualified to hold office unless the person:

1. Has been convicted of offering or giving a bribe, of larceny, or, of any other offense declared infamous by law, unless the person has been restored to citizenship (except those who have been convicted of an infamous crime if the offense was committed in the person's official capacity or involved the duties of the person's office, in which case the person shall forever be disqualified from holding office);
2. Has not paid a judgment for money received in an official capacity, which is due to the United States, Tennessee, or any county;
3. Has defaulted to the treasury at the time of election (in which case the election is void);
4. Is a soldier, seaman, marine, or airman in the regular United States Army, Navy or Air Force; or
5. Is a member of Congress or holds any office of profit or trust under any foreign power, other state of the Union, or the United States.

T.C.A. § 8-18-101.

A crime declared infamous by law essentially means a felony, or a crime which is partially punishable by disenfranchisement (loss of the right to vote). Also, there are several criminal statutes related to an official's misconduct in office, such as official misconduct (T.C.A. § 39-16-402), official oppression (T.C.A. § 39-16-403), misuse of official information (T.C.A. § 39-16-404), and conflict of interest (T.C.A. § 12-4-101), which, upon conviction, will result in disqualification to hold office for a period of ten (10) years from the date of conviction (T.C.A. §§ 39-16-406, 12-4-102). Any disqualified person who takes office is guilty of a misdemeanor (T.C.A. § 8-18-102).

The principles for determination of residence for purposes of the election code are (T.C.A. § 2-2-122):

1. The residence of a person is that place in which the person's habitation is fixed, and to which, whenever the person is absent, the person has a definite intention to return.
2. A change of residence is generally made only by the act of removal joined with the intent to remain in another place. There can be only one residence.
3. A person does not become a resident of a place solely by intending to make it the person's residence. There must be appropriate action consistent with the intention.
4. A person does not lose residence if, with the definite intention of returning, the person leaves home and goes to another country, state, or place within this state for temporary purposes, even if of years duration.
5. The place where a married person's spouse and family have their habitation is presumed to be the person's place of residence, but a married person who takes up or continues abode with the intention of remaining at a place other than where the person's family resides is a resident where the person abides.
6. A person may be a resident of a place regardless of the nature of the person's habitation, whether house or apartment, mobile home or public institution, owned or rented.
7. A person does not gain or lose residence solely by reason of the person's presence or absence while employed in the service of the United States or of this state, or while a student at an institution of learning, or while kept in an institution at public expense, or while confined in a public prison or while living on a military reservation.
8. No member of the armed forces of the United States, or such member's spouse or dependent, is a resident of this state solely by reason of being stationed in this state.

The following factors, among other relevant factors, may be considered in the determination of where a person is a resident (T.C.A. § 2-2-122):

- The person's possession, acquisition or surrender of inhabitable property.
- Location of the person's occupation.
- Place of licensing or registration of the person's personal property.
- Place of payment of taxes which are governed by residence.
- Purpose of the person's presence in a particular place.
- Place of licensing activities, such as driving.

These same principles, basically the physical presence with intention to make a place your residence, are also used by the courts in determining residence for other purposes.

Additional statutory qualifications are required for certain county offices, such as sheriff, and are discussed in the individual county office section. The offices and duties may vary in counties with a metropolitan government charter or a county government charter.

## Oath of Office and Bond-Clerks of Court

Reference Number:

CTAS-77

Court clerks and their deputies must take an oath of office specific to the office of court clerk as well as the constitutional oath. T.C.A. §§ 18-1-103, 18-1-104. [Oaths of office](#) are covered under the [General Information tab](#) of the County Offices topic.

[Bonds](#) are covered under the [General Information tab](#) of the County Offices topic. Every clerk must enter into a bond of \$50,000 in counties with a population of less than 15,000 and \$100,000 in counties with a population of 15,000 or more, or the court may require a greater bond. T.C.A. § 18-2-201. After being acknowledged before, approved and certified by the court, the bond must be entered upon the minutes of the court within 30 days and must then be recorded in the office the county register of deeds and transmitted to the county clerk for safekeeping. T.C.A. § 18-2-205. See also T.C.A. § 8-19-103 (Recording of bonds of county officers); T.C.A. § 8-19-115 (Time of filing).

Courts may require their clerks to give bond in such sum as the court may deem sufficient to cover property or funds that may at any time come to the hands of such clerks as special commissioners or receivers. T.C.A. § 18-2-202.

The court may also require special bonds to meet particular exigencies, and in a suitable penalty, whenever, in its judgment, the interest of suitors render it necessary. T.C.A. § 18-2-204.

## Oaths

Reference Number:

CTAS-30

Before taking office, the Tennessee Constitution, Article X, Section 1, provides that every person chosen to any office of trust must take an oath to "support the Constitution of this state and of the United States, and an oath of office." Review [Oaths of Office](#) for examples of different oaths.

There are various statutes throughout the Tennessee code providing for administering oaths to particular officials. There is also a general provision found at T.C.A. § 8-18-109(b), which provides that oaths of office for any elected or appointed official may be administered by the county mayor, the county clerk, a judge (current or retired) of any court of record in the county, or a current or retired judge of the general sessions court. In addition, under § T.C.A. 8-18-107, the governor, an active or retired supreme court justice, an active or retired inferior court judge, or an active or retired general sessions judge may administer the oath of office to an inferior court judge and, except as otherwise provided by law, to any other elected or appointed official. Notaries public are authorized to administer oaths pursuant to T.C.A. § 8-16-112. Members of the general assembly are also authorized to administer oaths to county officials. T.C.A. § 3-1-105. The oath of office for any county official required to file an oath may be administered at any time after the certification of the election returns by the appropriate legal authority in the case of elected officials, or after appointment in the case of appointed officials. However, even if the official files an oath before the scheduled start of a term of office, the official may not take office until the term officially begins. T.C.A. § 8-18-109.

The oath must be written and subscribed by the person taking it. Accompanying the oath must be a certificate executed by the officer administering the oath specifying the day and the year it was taken. T.C.A. § 8-18-107. The oath and the certificate are filed in the office of the county clerk, who endorses on

them the day and year of filing, and signs the endorsement. T.C.A. §§ 8-18-109, 8-18-110. Any county official who fails to take and file the required oaths is guilty of a misdemeanor. T.C.A. § 8-18-113.

## Bonds

Reference Number:

CTAS-31

An official bond is an instrument that requires the party or parties designated as sureties to pay a specified sum of money if the official who executes the bond fails to perform certain acts or performs wrongful and injurious acts in the office. In other words, an official bond is a written promise, made by a public official (1) to perform all the duties of the office, (2) to pay over to authorized persons all funds received in an official capacity, (3) to keep all records required by law, (4) to turn over to his or her successor all records, money, and property, and (5) to refrain from anything that is illegal, improper, or harmful while acting in an official capacity. If the official fails to perform the duties, violates the law, or commits a harmful act, the person who is injured may collect damages from the sureties on the official bond. The sureties must be surety companies doing business in Tennessee unless the county commission by two-thirds majority vote authorizes two individuals to act as good sureties instead of a surety company. T.C.A. §§ 8-19-111, 8-19-101, 8-19-301.

The bond protects the state, the county, and the citizens in the event the county official fails to perform his or her duties properly. The bond does not protect county officials from liability. If a payment is made under the bond, the county official's sureties may have a right to recover the amount paid from the county official. This action against the county official by the sureties is known as subrogation. The following county constitutional officials must execute a surety bond: county clerk, court clerks, sheriff, register, property assessor, and trustee. Also, bonds are required for the finance director, director of accounts and budgets, county auditor, constable, coroner, road commissioners, county surveyor, director of schools, purchasing agent, and notaries. A blanket bond is required for all county employees that are not otherwise covered. The specific bond amounts are set out in the table entitled [County Officials'/Employees' Minimum Bond](#).

The form of official bonds is prescribed by the comptroller of the treasury, with the approval of the attorney general. T.C.A. § 8-19-101. Blank copies of official bonds, ready for use, are available from the comptroller, Division of Local Finance.

The official bond of every county public official must be conditioned in the following manner: T.C.A. § 8-19-111.

That if the \_\_\_\_\_ (principal) shall:

1. Faithfully perform the duties of the office of \_\_\_\_\_ of \_\_\_\_\_ County during such person's term of office or continuance therein; and
2. Pay over to the persons authorized by law to receive them, all moneys, properties, or things of value that may come into such principal's hands during such principal's term of office or continuance therein without fraud or delay, and shall faithfully and safely keep all records required in such principal's official capacity, and at the expiration of the term, or in case of resignation or removal from office, shall turn over to the successor all records and property which have come into such principal's hands, then this obligation shall be null and void; otherwise to remain in full force and effect.

Some counties also use "blanket bonds" for all of the county officeholders. T.C.A. § 8-19-101.

Additionally, counties that have chosen to self-insure their liability under the GTLA may also elect to self-insure their risk of loss rather than obtain bonds or insurance. Such an election must be made by resolution, adopted by a 2/3 vote of the governing body. T.C.A. § 8-19-101.

Official bonds of the sheriff, county trustee, county clerk, and register of deeds must be approved by the county legislative body, recorded in the office of the register of deeds and transmitted to the county clerk for safekeeping. T.C.A. §§ 8-19-102, 8-19-103. Official bonds of assessors of property and persons vested by law with the authority to administer county highway and bridge funds must be approved by the county legislative body, recorded in the office of the county register of deeds, and transmitted to the county clerk for safekeeping. T.C.A. §§ 67-1-505, 54-4-103(c). Official bonds of clerks of court must be approved and certified by the court, entered into the minutes of the court, recorded in the office of register of deeds and

transmitted to the county clerk for safekeeping. T.C.A. § 18-2-205. The official bond of the director of schools must be approved by the county mayor, recorded in the office of the register of deeds and transmitted to the office of the county clerk for safekeeping. T.C.A. §§ 49-2-102, 9-3-301. The official bonds of other county officials, constables, and county employees required to have bonds shall be approved by the county legislative body, recorded in the office of the register of deeds and transmitted to the office of the county clerk for safekeeping. T.C.A. §§ 8-19-102, 8-19-103. Official bonds of officers which must be transmitted to the county clerk must be so transmitted for filing within forty days of election or twenty days after the term of office begins; all other bonds must be filed in the proper office within thirty (30) days after the election or within ten days after the term of office begins. T.C.A. § 8-19-115.

The register of deeds of each county must maintain a special record book in which each official bond is recorded unless the register is authorized to use a system of continuous recordings of all instruments. T.C.A. §§ 8-19-104, 8-13-108(d). The register of deeds must endorse on the bond the day and year on which it was recorded and sign the endorsement. Similarly, the county clerk, with respect to bonds filed for safekeeping in the office of county clerk, must endorse the filing date and sign the endorsement. Failure of the register or county clerk to endorse and sign the bond is a misdemeanor. T.C.A. § 8-19-116.

Any officer who is required by law to give bond and who fails to file it in the proper office within the time prescribed vacates the office. In such cases, the officer in whose office the bond is required to be filed must certify this failure to the appointing power. T.C.A. § 8-19-117. Upon the filing of a complaint alleging the failure of a county officer or constable to enter into an official bond as required by law, the circuit court clerk or the clerk and master having jurisdiction issues a summons that is served, together with a copy of the complaint, upon the county officer or constable in accordance with the Tennessee Rules of Civil Procedure. T.C.A. § 8-19-205. If the official fails or refuses to execute the required bond after receiving a copy of the complaint and a hearing, the court will enter a judgment declaring the office vacant, and the vacancy will be filled according to law. T.C.A. § 8-19-206. In addition, any officer required by law to give bond who performs any official act before the bond is approved and filed as required is guilty of a misdemeanor. T.C.A. § 8-19-119.

County officials must enter into a new bond at the beginning of each term. If the original of any bond is lost or destroyed, the record of the bond will be considered the original and suit may be instituted on the recorded bond. T.C.A. § 8-19-105. The county pays the premiums for official bonds and registration fees of county officials and employees. T.C.A. § 8-19-106. The constable pays all of the costs of obtaining and recording the official bond for his or her office unless the county legislative body votes to pay the cost of obtaining and recording the bond. T.C.A. § 8-10-106.

## Compensation-Clerks of Court

Reference Number:

CTAS-79

Clerks of court must receive an annual minimum salary in the amount for a general officer as formulated in T.C.A. § 8-24-102. The county legislative body may increase the salary of the general officers above the minimum amount, but may not increase the salary of a court clerk without also increasing the salary of other general officers unless the clerk of court serves more than one court in the county. If the clerk of court serves more than one court in the county, the county legislative body may set additional compensation for such clerk in the amount of 10 percent of the base salary of the clerk of court. The clerk and master is eligible for the additional 10 percent compensation if the clerk and master serves as clerk of the court that exercises probate jurisdiction, regardless of whether the chancellor or some other judge handles probate matters. T.C.A. § 8-24-102(j)(2). The amount due the court clerk as compensation does not vary with the amount of fees or commissions collected regardless of whether the salary of the court clerk is paid from the clerk's fee account or from the general fund.

More information on [Compensation](#) can be found under the [General Information](#) tab for County Offices.

## Compensation

Reference Number:

CTAS-32

There are specific statutes regarding compensation for each office. In general, though, statutes prescribe salaries according to county population classes for many officials. The General Assembly has established 17 population classes for the purpose of determining the compensation of county officers. T.C.A. § 8-24-102. This statute provides base minimum salary schedules for three categories of county officers: (1) "general officers," which include assessors of property, county clerks, clerks of court, trustees, and registers of deeds; (2) sheriffs and chief administrative officers of highway departments; and (3) county

mayors. These specified minimum salaries cannot be raised or lowered except through subsequent legislation, but since they are minimum salaries, the actual salary may be increased by resolution of the county legislative body, but the class of general officers must all receive the same amount of any increase.

The minimum salaries are adjusted annually on July 1 by a dollar amount equal to the average annualized increase in state employees' compensation during the prior fiscal year multiplied by the compensation established for the county officials of the county with the median population of all counties. The adjustment cannot exceed 5 percent in any year; provided, however, the annual percentage increase in the minimum compensation of county officials shall not be less than the percentage increase established for county officials of the county with the median population of all counties. The average annualized general increase in state employees' compensation for purposes of calculating the adjustment in salary for county officials means the average increase in base salary plus the equivalent percentage increase represented by appropriated funds made available to address classification compensation issues, plus the equivalent percentage increase represented by recurring appropriation amounts provided to improve the level of retirement benefits, longevity benefits, deferred compensation benefits and other similar benefits not including health insurance benefits. These adjustments are calculated and certified by May 1 of each year by the commissioner of finance and administration. T.C.A. § 8-24-102.

Full-time county officials, not including general sessions judges, who complete the County Officials Certificate Training Program (COCTP) administered by the University of Tennessee's County Technical Assistance Service (CTAS) and become a "Certified Public Administrator" may receive an annual incentive payment up to a maximum of \$1,500 from state-appropriated funds. To continue receiving these payments, certified county officials must take additional training annually. If an official receives incentive pay from the state through other professional development programs, such amounts will be offset so that no official receives more than \$1,500 of incentive pay from the state per year; provided, however, certified public administrator educational incentive payments to assessors shall not be offset by the compensation received by assessors for obtaining certain professional designations pursuant to T.C.A. §§ 67-1-508; 5-1-310(e). These amounts are subject to annual appropriations from the General Assembly and have not reached the maximum allowed by law.

County legislative bodies may appropriate additional amounts as incentive payments to county officials and employees who have become Certified Public Administrators in an amount not exceeding \$3,000 minus payments made by the state. Educational incentive pay received by an official does not affect the calculation of compensation for officials provided in other statutes. CTAS is required to submit a list to the state treasurer, by August 31 each year, of all county officers who have completed all requirements of the COCTP to attain or maintain the designation of Certified Public Administrator. This list replaces individual applications submitted by county officials for purposes of determining eligibility for the educational incentive payment. T.C.A. § 5-1-310.

## Relationship to County Legislative Body and Other Officials- Clerks of Court

Reference Number:

CTAS-82

The court clerk must interact with the county mayor and/or a finance/budget director as well as the county legislative body regarding the clerk's budget and budget amendments. The exact procedures vary from county to county depending upon whether the county operates under a charter or optional general law regarding budgeting, or has a private act dealing with this subject. However, all court clerks must submit budget requests in a timely manner in the first half of each calendar year for inclusion in the county's annual budget. Most counties have budget committees that may recommend appropriations for the clerk's budget that differ from those submitted by the court clerk. The county legislative body determines the amount of the clerk's budget, subject to certain restrictions, such as following the requirements of any court order regarding a salary suit for deputies or assistants. In many counties, depending upon the applicable law, the county mayor has the authority to approve line item amendments to the clerk's budget within major categories not affecting personnel, whereas major category amendments require the approval of the county legislative body. T.C.A. § 5-9-407.

Of course the clerks have a close working relationship with the judges or chancellors of the courts they serve. A good working relationship between judge and clerk is vital to the efficient operation of the courts. Court clerks also interact regularly with the office of sheriff and collect sheriff's fees as part of the bill of costs. Process directed to the sheriff is returned by the sheriff or deputy to the court clerk. The sheriff executes on property in proper cases and returns funds to the clerk to allocate according to law. If a county has constables who serve process, the court clerk may also interact with these officials in the performance of their duties.



All clerks interact with the trustee in the regular remittance of fees and local litigation taxes. Clerks and masters interact with the trustee and the delinquent tax attorney regarding collections of delinquent property taxes and tax sales.

## Fee System or Salary System

Reference Number:

CTAS-33

The sheriff, trustee, county clerk, register of deeds and court clerks receive fees from the public for services they perform; for this reason, these officials are sometimes referred to as "fee officials." There are two methods of accounting for the fees received by these officers. The first and oldest is the "fee system." Under this system, each official remits to the trustee quarterly all of the fees and charges collected by the official in excess of expenses for the following items: salaries of the official's deputies and assistants, necessary expenses of the office, and the official's salary as established by statute. The official is also authorized to maintain a reserve in an amount equal to three times the monthly salaries of the official, deputies, and assistants. T.C.A. § 8-22-104. If in any month the total amount of fees and commissions are insufficient to pay the total amount of the official's salary, the salaries of deputies and assistants, plus the other expenses of the office for the month, the amount of the deficiency may be paid out of any excess fees received by the official during any preceding or succeeding months of the terms for which the official is elected. T.C.A. § 8-22-108. If the fees are insufficient to pay the regular expenses of the office, including the statutory salary of the official and the salaries of deputies and assistants, the minimum salary of the official is to be paid out of county general funds. T.C.A. § 8-24-107. Excess fees are placed in the county general fund as a source of county revenue.

The county commission is authorized to adopt an alternative system for fee officials, often called the "budget" or "salary" system, although the sheriff is always under this alternative system. T.C.A. § 8-24-103. This budget system can be adopted for some or all of the officials. T.C.A. § 8-22-104. Under this method, the official pays over to the trustee all of the fees, commissions, and charges collected by the office on a monthly basis. The county commission must, in return, budget for expenses, authorizing the trustee to pay the official's salary, salaries of deputies and assistants, and authorized expenses of the office. These salaries and other proper costs of the office are included in the budget and must be paid even if the fees are insufficient to cover them.

## Deputies and Assistants

Reference Number:

CTAS-34

Generally, county "fee officials" (those county officials who regularly collect fees for their services) must have authority other than the county budget resolution before they can hire employees. This authority may come directly from statute, by court order, or through a [letter of agreement](#). T.C.A. § 8-20-101. If the county official's own salary and that of deputies and assistants is paid directly from the county general fund and the county fee official agrees with the amount appropriated for deputies and assistants as set forth in the budget adopted by the county legislative body, the official enters into a letter of agreement with the county mayor, using a form prepared by the state comptroller, that is then filed with the court. T.C.A. § 8-20-101.

If the county official does not agree with the amount appropriated, a salary suit may be filed by petition of the county official under T.C.A. § 8-20-101. The court in which the petition is filed depends on the official. Clerks of court file their petitions with any one of the judges of their respective courts; sheriffs file in circuit or criminal court; clerks and masters, trustees, county clerks and clerks of probate court, and registers of deeds file with the chancery court. The county mayor is named as defendant and the county mayor is required to file an answer within five days after service of the petition. The petition must be filed by the fee official within 30 days after the final adoption of a budget by the county legislative body. Also, a new officeholder has 30 days from the day of taking office to file a petition. The court will then hold a hearing and issue an order determining the appropriate number and compensation of deputies and assistants. T.C.A. § 8-20-102. If the fee official is under the fee system and pays deputies and assistants directly from the official's bank account, the official can negotiate a letter of agreement with the county for the number and compensation of deputies and assistants. If the fee official cannot reach an agreement with the county mayor, the fee official must file suit to obtain authority to hire deputies and assistants.

County officials have the power to employ and discharge employees. The court decree or letter of agreement merely sets the maximum number and maximum compensation of the employees. It is the county official's duty to reduce the number of deputies and assistants or their salaries when it can reasonably be done. T.C.A. § 8-20-105.



The compensation for deputies and assistants established by court decree or letter of agreement must be sufficient to comply with the Federal Fair Labor Standards Act (FLSA) and its minimum wage and overtime provisions. In general, nonexempt employees must receive overtime compensation at the rate of one and one-half their regular rate of pay for all hours worked in excess of 40 in a week. Compensatory time off is allowed in lieu of overtime compensation, but the employee must receive one and one-half hours off for each hour worked in excess of forty (40), and as a general rule, an employee may not accrue more than two hundred forty (240) hours of compensatory time.

## Duties-Clerks of Court

Reference Number:

CTAS-81

Clerks serve an important role in the operation of the Tennessee court system, a role that is outlined generally in Title 18 of the Tennessee Code Annotated. Some of the clerks' duties include the following:

1. Attending each court session with all the papers for the cases on the docket;
2. Administering oaths to parties and witnesses who testify;
3. Keeping minutes of the court in a well-bound book or in an electronic format so long as certain rules relating to the safekeeping of the records are followed;
4. Maintaining the rule docket and an execution docket in which all court judgments or decrees are entered in order of rendition and all receipts and disbursements in a case are entered;
5. Maintaining indexes for all books and dockets that are kept by the office; and
6. Investing funds pursuant to T.C.A. § 18-5-105.

T.C.A. §§ 18-5-102, 18-1-105.

The clerk must reside in the county where the court is held and maintain an office in the county seat.

T.C.A. § 18-1-102.

General sessions clerks have duties similar to other court clerks:

1. Retaining, preserving, and filing in order all papers in civil cases;
2. Transmitting papers when an appeal has been taken to circuit court; and
3. Keeping in a well-bound book a docket of all judgments and executions, or storing such information in an electronic format in accordance with rules for the safekeeping of these records.

T.C.A. § 16-15-303.

Because court clerks deal with voluminous paperwork, the storage and retention of documents are important aspects of these offices, and it is extremely important that the records of the clerk's office be well organized and accurate. Clerks collect state and county litigation taxes, criminal injuries compensation tax in courts with criminal jurisdiction, county expense fees, and depending upon the particular court, funds for the impaired driver's trust fund, Tennessee Bureau of Investigation fees, misdemeanor jail per diems, fines, sheriff's fees, clerk's fees, witness fees and other items of court costs. Clerks prepare bills of costs in cases, account for these monies and make collection efforts when these amounts are unpaid. Clerks maintain a cash journal (general ledger) to account for and summarize the cash transactions of the office and issue receipts for all collections.

Clerks invest idle funds according to T.C.A. § 8-21-401, and often serve in a fiduciary capacity to invest funds held for third parties. Additionally, clerks and masters conduct delinquent tax sales, and clerks more generally may conduct sales of property ordered by the court. Clerks, depending upon the particular court, may collect support, including alimony and child support, pursuant to court order and the general law although the responsibility for collecting support in many cases has been transferred to a central state collecting agency. It is the official duty of each clerk of court to attend meetings of the state court clerks' conference unless the clerk is otherwise officially engaged or is unable to attend for good and sufficient reasons. T.C.A. § 18-1-501 *et seq.*

## State Litigation Tax

Reference Number:

CTAS-1640

*Authority.* T.C.A. §§ 67-4-601 through 67-4-606.

*Description.* The General Assembly has provided a privilege tax on litigation, collected upon the

commencement of a civil action, a finding or plea of guilty or submission to a fine in a criminal action, the filing of an appeal or writ of error or certiorari, judgment against the defendant in any original civil action brought by a city, county or the state or upon judgment or final decree against the appellee when the appellant is a city, county or the state. Such tax is administered by the commissioner of revenue and collected by the clerks of Supreme Court, Court of Appeals, circuit courts, criminal courts, probate courts, county court, courts of law and equity, chancery courts, general sessions courts, city courts and any other inferior courts the General Assembly may create.

The following are the most common state privilege taxes upon litigation:

- |  |         |
|--|---------|
| 1. Criminal charges; T.C.A. § 67-4-602(a)                | \$29.50 |
| 2. Civil suits in courts of record; T.C.A. § 67-4-602(b) | \$23.75 |
| 3. Civil cases in general sessions; T.C.A. § 67-4-602(c) | \$17.75 |

When a general sessions court is exercising state court jurisdiction, except with regard to juvenile court, there is levied an additional privilege tax of \$1 added to the \$23.75 listed above.

In all criminal charges in any state, county or municipal court for any violation of Title 55, Chapter 8, or for any violation of any ordinance governing the use of a public parking space there is levied an additional state litigation tax of \$1.

Additionally, T.C.A. § 67-4-602(h) imposes an additional privilege tax on litigation of \$3.00 on all criminal charges, upon conviction or by order, instituted in any state or general sessions court, to be deposited in a special account in the state treasury to be known as the "Statewide Automated Victim Information and Notification System Fund."

There is also an additional litigation tax of \$2.00 imposed on all criminal charges, upon conviction or by order, instituted in the general sessions court of any county served by a judicial commissioner. T.C.A. § 67-4-602(k).

*Collection.* State litigation taxes are collected by the various court clerks. For services in collecting and remitting these taxes, clerks are entitled to a 6.75 percent commission. T.C.A. § 8-21-401. As this commission is a change to a uniform percentage from prior law, which provided for different commissions in different courts and counties, the Department of Revenue provided that clerks shall be held harmless and shall not receive a commission that is less than the commission received by the clerk in the fiscal year ending June 30, 2005.

## County Litigation Taxes

Reference Number:

CTAS-1641

*Authority.* TCA 67-4-601, 16-15-5006, and 16-20-106.

*Description.* Counties have authority to levy a local litigation tax up to the amount levied as state litigation tax. This local litigation tax may be levied by private act, by resolution of the county legislative body, or by a combination of private acts and county legislative body resolutions. Clerks of the various courts to which such tax applies as specified in the private act or resolution collect the local litigation tax. The private acts and local resolutions of each individual county must be consulted for that county's litigation tax rate.

In addition to matching the state litigation tax, TCA 16-15-5006 authorizes counties to levy a litigation tax of up to \$6 per case for each case filed in general sessions court or in a court where the general sessions judge serves as judge, except juvenile court, by resolution passed by a two-thirds vote of the county legislative body, proclaimed by the presiding officer and certified to the secretary of state. This statute also contains a provision allowing the litigation tax to be raised above \$6 if in any fiscal year the proceeds of the tax do not raise sufficient revenue to fund the salary, under the circumstances specified in the statute. See Op. Tenn. Att'y Gen. U94-130. The county litigation tax authorized by TCA 16-15-5006 is earmarked for the salary of the general sessions judge.

Counties are authorized to levy an additional local privilege tax on litigation in all civil and criminal cases instituted in the county, not including those instituted in municipal court under subsection (b) of TCA 67-4-601. This additional tax may be levied by a resolution passed by a two-thirds vote of the county legislative body. Counties are authorized to levy the tax for jail or workhouse construction, reconstruction or upgrading, or to retire debt, including principal and interest and related expenses, on such construction, reconstruction or upgrading or for courthouse renovation.

Originally, the Attorney General issued opinions indicating that counties were limited to a maximum tax levy of \$50 under subsection (b) of TCA 67-4-601 (AG Op. Nos. 08-167 and 12-13). These opinions interpreted subdivisions (b)(1) and (b)(5) of subsection (b) not as separate taxes but linked. The opinions state that (b)(5) only authorizes an increase in the (b)(1) tax to a maximum of \$25. However, in 2016 the Attorney General issued another opinion (Op. No. 16-10) that interprets subdivisions (b)(1) and (b)(5) as unrelated separate taxes. Thus, in the 2016 opinion, the Attorney General opines that counties can levy a maximum \$60 tax under subsection (b) of TCA 67-4-601 (\$10 under subdivision (b)(1), \$25 under (b)(5), and \$25 under (b)(6)). The 2016 opinion appears to supersede the 2008 and 2012 opinions.

In addition to the uses set forth above (i.e., jail/courthouse) as much as \$25 of this tax may be used for courthouse security. Also, up to \$50 of the tax may be used for the purpose of obtaining and maintaining software and hardware associated with collecting, receiving and maintaining records for law enforcement agencies. Finally, the entire amount may also be used for substance abuse prevention purposes.

The law contains a sunset provision that causes the tax levy to cease once the costs of the project have been paid or the debt for the project has been retired.

Finally, per TCA 16-20-106, counties by a two-thirds (2/3) vote may levy an additional \$2 litigation per case to be denominated as a part of the court costs for each petition, warrant and citation, including warrants and citations for traffic offenses, in matters before the local general sessions courts and juvenile courts to be used by the county for the exclusive purpose of supporting a local victim-offender mediation center or centers.

*Distribution.* Distribution of county litigation taxes that are to match the state levy may be used for any county purpose or purposes specified in the private acts or resolutions.

## Clerks of Court

Reference Number:

CTAS-75

The Tennessee Constitution in Article VI places the judicial power of the state in one supreme court and in such circuit, chancery and other inferior courts as the legislature creates. The Constitution further provides in Article VI, Section 13, that chancellors appoint the clerk and master for a six-year term and that clerks of other inferior courts are elected for a four-year term. The Tennessee Constitution provides that the clerks of the inferior courts may be chosen on a district or county basis. Many counties have only the circuit court clerk and clerk and master to perform clerking duties for all of the courts held in the county, but others have additional court clerks established by private act or charter, such as general sessions court clerk or juvenile court clerk. In any county in which a separate general sessions clerk is created by private act, the clerk serves in accordance with the private act. T.C.A. § 16-15-301. In counties without a separate general sessions clerk, the circuit clerk usually serves as the general sessions court clerk. T.C.A. § 16-15-301. In most counties, the circuit court has both civil and criminal jurisdiction and uses only one clerk, but some populous counties have a separate criminal court and elected criminal court clerk.

## Juvenile Courts

Reference Number:

CTAS-496

The general sessions court, except those with a special juvenile court established by private act, has juvenile court jurisdiction. T.C.A. § 37-1-203. Every court having juvenile jurisdiction must have a sign in a conspicuous place identifying it as "Juvenile Court." T.C.A. § 37-1-206. The general sessions court when acting as juvenile court has the title and style of "Juvenile Court of \_\_\_\_\_ County." T.C.A. § 37-1-204. However, the legislature did not intend to make the juvenile court a general sessions court. The intent was to transfer juvenile court jurisdiction to the general sessions court and to make the general sessions court a juvenile court when the subject matter before the court was within the jurisdiction conferred upon juvenile courts. *State ex rel. Winberry v. Brooks*, 670 S.W.2d 631 (Tenn. Ct. App. 1984). Only general sessions judges who are licensed to practice law in Tennessee may order commitment of a juvenile to the Department of Correction. T.C.A. § 37-1-203. If the judge is not licensed to practice in Tennessee, a lawyer-referee is appointed to handle such matters. T.C.A. § 37-1-107. The juvenile court has concurrent jurisdiction with the circuit and chancery court of proceedings arising from the 1980 Hague

Convention on the Civil Aspects of International Child Abduction. T.C.A. § 37-1-104.

Pursuant to T.C.A. § 37-1-702, juvenile judges are authorized to establish a teen court program. The teen court is given the authority to conduct proceedings, receive evidence, hear testimony related to the dispositional stage and recommend disposition of the case. For any particular case, the teen court consists of five teen members chosen from a panel of 12 or more teenagers appointed by the juvenile court judge.

## General Sessions Court and Interchange

Reference Number:

CTAS-497

Under T.C.A. § 17-2-208, general sessions and juvenile judges may interchange with each other. The substituting judge need not be a resident of the same county, but must otherwise possess the same qualifications of the absent judge. If another judge cannot serve by interchange, general sessions and juvenile judges who must be absent from court may seek a special judge pursuant to the requirements and process set forth in TCA 16-15-209. General sessions court judges may sit by interchange for municipal court judges, but not vice versa. T.C.A. § 16-18-312.

## Probate Court

Reference Number:

CTAS-498

Chancery court has exclusive jurisdiction to probate wills and administer estates, unless provided otherwise by private act. T.C.A. § 16-16-201. The clerk and master exercises probate jurisdiction, unless otherwise provided.

## Special Courts

Reference Number:

CTAS-499

Occasionally, public or private acts create courts to exercise particular jurisdiction in a county. Some counties have chosen through private acts to have separate special jurisdiction courts. Probate jurisdiction is in chancery court unless it is placed in another court by a special act. Similarly, general sessions court has juvenile jurisdiction, unless it is placed in another court by private act. Some counties have combined specialized jurisdictions to create new court titles. The clerk of these courts is designated in the private acts creating these courts. The judge's salary is determined according to the special legislation. Cases from these special inferior courts may be appealed to the circuit court for a de novo trial.

## Judicial Commissioner

Reference Number:

CTAS-476

In most counties (and all under 200,000 population) the legislative body may appoint one or more people to serve as judicial commissioners whose duties include, but are not limited to:

1. Issuing arrest and search warrants upon a finding of probable cause;
2. Issuing mittimus following compliance with lawful procedures;
3. Appointing attorneys for indigent defendants;
4. Setting and approving bonds and the release on recognizance of defendants; and
5. Issuance of injunctions and other appropriate orders in cases of alleged domestic violence.

T.C.A. § 40-1-111.

A judicial commissioner appointed by the county legislative body is considered a county officer and serves a fixed term set by the county legislative body, but the term may not be longer than four years. Judicial commissioners are compensated from the county's general fund in an amount determined by the legislative body. All fees collected by judicial commissioners must be paid to the county general fund. T.C.A. § 40-1-111. No search warrant, arrest warrant or mittimus may be issued by an official whose compensation is contingent in any manner upon the issuance or nonissuance of such warrants or mittimus. T.C.A. § 40-5-106.

## Retention Schedules

Reference Number:

## CTAS-202

The County Technical Assistance Service, in cooperation with the Tennessee State Library and Archives and the Division of Records Management, is authorized to publish schedules which are to be used as guides by all county public records commissions, county offices, and judges of courts of record in determining which records should, can, and may not be destroyed. T.C.A. § 10-7-404. Those schedules are called the Retention Schedules. The retention schedules describe more than 650 different records series for multiple county offices. This material is organized by county office and by subject. Obviously CTAS recommends that all county public record commissions adopt these schedules as the basis for determining the disposition of county records in their county. When the schedules were developed, they were reviewed and revised by the legal and technical staff of CTAS, by the Division of County Audit in the office of the comptroller, by representatives of the Tennessee State Library and Archives and the Division of Records Management in the State Department of General Services, and by committees and groups of numerous county officials. The language of the statute says that county officials and records commissions shall use these schedules as "guides" in determining whether a record should be kept or destroyed. This does not mean that a County Public Records Commission can never deviate from the CTAS schedules. However, any decision to use a different retention period should be thoughtfully considered and the reasons well documented by the records commission. Any decision to destroy a record sooner than is recommended by the schedules certainly needs to be taken seriously. If your records commission decides that there is a significant reason why a record should be destroyed before the recommended retention period has elapsed, contact CTAS first to discuss the retention period and see if there is a reason why the recommended retention period in the manual should be shortened.

For additional information, see [Appraisal and Disposition of Records](#), Tennessee Archives Management Advisory.

## Current Retention Schedules

Reference Number:

CTAS-2068

### **Policy Statement**

The Tennessee State Library and Archives (TSLA) is given authority by T.C.A. § 10-7-413 to review proposed destruction of county records and to take into the state archives such records proposed for destruction as may have historical research value. TSLA has reviewed and approved these retention guidelines prepared by the County Technical Assistance Service (CTAS).

### **Permanent Records.**

With respect to records designated in these guidelines as "permanent," TSLA-

1. Concurs entirely with all guidelines herein that appraise records series to be of permanent value;
2. Reminds local governments that they are obliged by the provisions of T.C.A. § 10-7-503 to make such records permanently and consistently available for public inspection;
3. Advises that a county archives, which is an integral office of local government and responsible to the local county mayor through the public records commission, is the most effective and economical means of doing this; and
4. Encourages local governments to establish, support, and maintain such archives.

In cooperation with CTAS and other agencies, TSLA has designated certain records as permanent based on their value as legal and historical evidence to document the collective experience of the citizens of the community. Such records should be retained and made available to the public in public archives in accordance with T.C.A. § 10-7-503.

### **Temporary Records.**

TSLA has appraised for historical value the descriptions of temporary records series that are herein recommended for destruction at the ends of their retention terms. Because of the confidence we have in this review and in the guidelines, TSLA certifies that-

- Destruction of records in accordance with these guidelines may be authorized by local public records commissions;
- Public records commissions may issue continuing records disposition authorizations for routine disposals, so that local offices do not have to present repeated requests to the public records commission; and that
- Disposal may then proceed without further review by TSLA;

*provided that*

- (1) Local officials report all such disposals to the local public records commission;
- (2) The local public records commission certifies to the county mayor that destruction has been authorized in accordance with these guidelines;
- (3) The certification cites the specific applicable guideline in each case of authorized destruction; and that
- (4) Local public records commissions consider carefully the needs of local historical and genealogical societies, consult with them, and upon their advice or request use the provisions of T.C.A. § 10-7-414(a) to authorize transfer of records otherwise scheduled for destruction (e.g. marriage bonds or court case files) to the local historical society for retention and historical research.

In the interest of building and maintaining a strong sense of community history, TSLA further encourages local public records commissions, executives, and legislative bodies to provide material and financial support for the local preservation and public inspection of such transferred records in accordance with T.C.A. § 10-7-414(c).

Questions about the possible disposition of county records and the establishment of a county archives and records program for the preservation of permanent value records can be referred to-

Tennessee State Library and Archives  
 403 7th Avenue North  
 Nashville, Tennessee 37243  
 (615) 741-2764

## Circuit and Criminal Court Records Retention Schedule

Reference Number:  
 CTAS-2052

**Circuit and Criminal Court Records.** The records included in this schedule are those for the offices of the Circuit and Criminal Courts, and, to a lesser degree, the General Sessions Courts. They are divided into different sections based on the type of record. Other records specific to the General Sessions Court and Juvenile Court are found in separate schedules in this manual. Records that may be kept in the same format by several county offices (such as employment records, purchasing records, etc.) will be found listed under topical retention schedules in this manual. Included in this table is a listing of “obsolete” records. Your office should no longer be generating these records. They are still included in the disposition schedule so that anyone discovering those materials in older records of the office will know how to deal with them. To a certain extent, the records kept by county offices vary from county to county in either the format of record kept, the name given to the record, or the frequency of its occurrence. This is particularly true of court records which may vary according to local rule and practice and especially confusing concerning the varying forms of docket books that courts may have utilized over the years. The fact that a certain record is listed in this schedule does not necessarily indicate that you should have it in your office. It may be a format for record-keeping that was never utilized in your county, or you may keep the record under a different name. If you have records in your office that are not listed in this schedule by name, check the descriptions of the records to see if we may have called it by a different term. If you still cannot locate any entry relative to the record, contact us at the County Technical Assistance Service for guidance in determining the proper disposition of the record and so that we can make note of that record’s existence to include it in future revisions of this manual.

### Retention Schedule for Circuit and Criminal Court Clerks

Description of Record	Retention Period	Legal Authority/ Rationale
<b>A. Civil Action Files</b>		
<b>04-001 Briefs</b> —Statements of the case, legal theory and arguments for a party in a case.	Maintain for three years after final disposition of case, then notify parties and destroy.	T.C.A. § 18-1-202(b).
<b>04-002 Civil Actions, Record of</b> —All original process and rules, pleadings, judge's opinions and orders, if any, in each civil case.	Permanent record.	T.C.A. § 18-1-202(a).
<b>04-003 Discovery Records, Civil</b>	Maintain for three	T.C.A. § 18-1-202.

**Retention Schedule for Circuit and Criminal Court Clerks**

Description of Record	Retention Period	Legal Authority/ Rationale
<b>Cases</b> —Interrogatories, depositions and other legal devices to obtain information concerning a case prior to trial.	years after final disposition of the case, then destroy after notice is given to parties.	
<b>04-004 Doctor’s Depositions in Worker’s Compensation Cases</b>	See Trial Exhibits and Evidence, below.	
<b>04-005 Judge’s Opinions</b> —Statements by the judge of the decision reached in regard to a cause heard before him relating the law as applied to the case and giving reasons on which the judgment is based.	Permanent record.	T.C.A. § 18-1-202(a).
<b>04-006 Summonses</b> —A writ notifying a person that a court action has been commenced against him, and that he is required to appear on a day named and answer the complaint in such action.	Permanent record.	T.C.A. § 18-1-202(a).
<b>04-007 Trial Exhibits and Evidence</b> —Any documentary evidence and exhibits presented at trial that become part of the record of the case. For physical evidence, see T.C.A. § 18-1-206.	Retain 10 years after final judgment, then destroy unless local rule of court provides for a different retention period.	T.C.A. § 18-1-202(a).
<b>B. Bonds</b>		
<b>04-008 Appearance and Bail Bond</b>		
<b>Records</b> —Bonds and recordings of bonds executed by defendants and sureties showing defendant's name, name of person serving as surety, amount of bond, and signatures of the accused and sureties.	Retain 10 years after final judgment, then destroy.	T.C.A. § 18-1-202(a).
<b>04-009 Attachment and Injunction Bonds</b> —Bonds executed in attachment and injunction cases insuring defendant against damages likely to occur as a result of wrongful suing, showing date of bond, names of principal and sureties, amount of bond, condition of the obligation, and signatures of principal and sureties.	Retain 10 years after final judgment, then destroy.	T.C.A. § 18-1-202(a).
<b>04-010 Cost Bonds, Civil Cases</b> —Bonds executed to insure payment of court costs, showing names of plaintiff and defendant, amount and date of bond, condition of the obligation, and signatures of principal and sureties.	Retain three years after final judgment, then destroy.	T.C.A. § 18-1-202(b).
<b>04-011 Miscellaneous Bond Books</b> —Receivers', indemnifying, appearance, cost, refunding, replevin, etc., bonds, showing names of principal and sureties, style of case, amount and date of bond, condition of the obligation, and signatures of principal and sureties.	Retain 10 years after release, replacement or expiration of all bonds in book, then destroy.	T.C.A. § 18-1-202(a).
<b>04-012(a) Prosecution Bonds</b> —Bonds executed by persons instituting suits in circuit and criminal court, by virtue of which they assume all responsibility of judgment and costs that may be taxed to them, show	Retain 10 years after final judgment, then destroy.	T.C.A. § 18-1-202(a).
<b>04-012(b) Bondsman Reports</b> - Reports from bonding companies under T.C.A. § 40-11-303.	Retain 10 years, then destroy.	Keep record for audit purposes and a reasonable period to allow Judge to investigate bondsmen.
<b>C. Criminal Action Files (See also Process, Court Orders, Writs, Etc.)</b>		
<b>04-013 Criminal Actions, Record of</b> —All original process, case papers and documents in criminal cases, including judge's orders, in both felony and misdemeanor cases.	Permanent record.	T.C.A. § 18-1-202(a).



**Retention Schedule for Circuit and Criminal Court Clerks**

Description of Record	Retention Period	Legal Authority/ Rationale
<b>04-014 Detainer Warrants</b> —Instrument authorizing the keeper of a prison to keep a person in custody. Shows name of person in custody, length of time to be detained, and signature of issuing official. Exception: Records of DUI offenses.	Retain 10 years, then destroy; however, records of DUI convictions should be kept 20 years.	T.C.A. § 18-1-202(a) T.C.A. § 55-10-403(a)(3) allows for prior DUI convictions up to 20 years before an offense to be used to enhance sentencing as a multiple offender.
<b>04-015 Indictments or Presentments by Grand Jury</b> — These records show name of defendant, return date of indictment, and nature of offense charged therein.	Permanent record.	T.C.A. § 18-1-202(a).
<b>04-016 Recordings of Criminal Proceedings</b> — Verbatim recordings of preliminary hearings entry of plea by the defendant as required by Tenn. Rules of Criminal Procedure, Rules 5.1 and 11.	Retain 10 years after final judgment and exhaustion of appeals, then get court order to authorize destruction.	T.C.A. §§ 18-1-201 and 18-1-202(a).
<b>04-017 Summons, Criminal</b> —A writ notifying a person that a criminal proceeding has commenced against him and that he is required to appear in court at a stated time and place.	Permanent record.	T.C.A. § 18-1-202(a).
<b>D. Dockets [NOTE: Dockets are kept in varying formats in different courts. Not all of the following dockets may be found or kept in your court. Much of the information may be combined into one docket or maybe be kept electronically pursuant to T.C.A. § 10-7-121. Except for Mental Health and Adoption Dockets, most other dockets may now consolidated into a single docket. The fact that separate listings are given for dockets below does not mean that these records must be kept separately.]</b>		
<b>04-018 Alimony and Child Support Dockets/ Ledgers</b> — Docket/ledger shows date alimony or child support paid to court clerk, date paid out by him or her, name of person to whom paid, and amount.	Retain 25 years after last entry, then destroy.	Retention period based on period of dependency of minor.
<b>04-019 Appeal Dockets</b> —Record of cases going to appellate courts showing style of case, date, and ruling of the court; may show court costs.	Retain 10 years after last entry, then destroy.	T.C.A. § 18-1-202(a).
<b>04-020 Appearance and Rule Dockets</b> — Record of first appearance of all causes in court, showing date filed, names of attorneys, style of case, security, and action taken.	Permanent record.	T.C.A. § 18-1-202(a).
<b>04-021 Bar Dockets (aka Hearing Dockets, Trial Dockets, or Judge’s Docket Sheets)</b> —A record prepared for the use of the judge, clerk and bar, listing all cases set for trial in court, showing date of court term, case number, names of attorneys, plaintiff, defendant, date case filed; may also show page and volume number or recordation in minute book. This is basically a working paper, but may have record value in some counties.	As long as the information in this record series is found in other records which are retained for 10 years, these are considered working papers records and may be destroyed when no longer useful.	T.C.A. § 10-7-406(b).
<b>04-022 Delinquent Tax Docket Book</b> —Record of property taken over by the county, showing description of all properties sold at a tax sale, whether redeemed or not, by whom redeemed, amount of taxes, date, and decree of court relevant to property.	If the county maintains this information in this format, retain as a permanent record.	These records could have bearing on land title and therefore need to be maintained.
<b>04-023 Execution Dockets and Indexes</b> —A financial record of cases tried, style of case, nature of action, amount of judgment and cost, and amount	Permanent record.	T.C.A. § 18-1-202(a).

**Retention Schedule for Circuit and Criminal Court Clerks**

Description of Record	Retention Period	Legal Authority/ Rationale
and date paid. <b>04-024 Grand Jury Dockets</b> —Docket shows name of defendant, offense charged, and date of indictment or no true bill.	Retain 10 years, after last entry, then destroy.	T.C.A. § 18-1-202(a).
<b>04-025 Motion Dockets</b> —Docket shows names of plaintiff and defendant, date motion filed, nature of motion, and remarks.	As long as information in these records is found in other records which are retained for 10 years, these are considered working papers and may be destroyed when no longer useful.	T.C.A. § 10-7-406(b).
<b>04-026 Rule Dockets and Indexes</b> — A record of original processes issued and filed incident to cases tried in court, showing number of case, date and hour filed, names of complainant, respondent, and solicitors; also date and nature of process, names of bondsmen, date process served, note of officer's return, and rules and orders of the court.	Permanent record.	T.C.A. § 18-1-202(a).
<b>04-027 Worker’s Compensation Dockets</b> —Docket shows name of person applying for compensation, date of application, date and amount of judgment, and accrued costs.	Permanent record.	T.C.A. § 50-6-225.
<b>E. Financial Records</b> —The disposition schedule for many of the financial records of the court can be found in schedule number 15 in this manual, entitled General Accounting and Purchasing Records. The items included below are those financial items unique to the office of the court clerk.		
<b>04-028 Bills of Costs</b> —Bills of costs submitted for payment showing names of plaintiff and defendant, date of initial action, items of cost, amount of each, date process issued, signature of official issuing warrant, date filed with court for trial, clerk's certification, date judgment paid, and number of warrant issued in payment.	If information in this record series is found elsewhere, destroy when no longer useful. If information is kept electronically, keep paper records five years.	Working paper that can be destroyed in accordance with rules of the Public Records Commission ( T.C.A. § 10-7-406(b)). Five year retention period is based on audit requirements ( T.C.A. § 10-7-404(a)).
<b>04-029 Case Ledgers</b> —Record of case funds received and distributed.	Retain 25 years after last entry, then destroy.	Keep for audit purposes (T.C.A. § 10-7-404(a)).
<b>04-030 Fee Reports</b> —Reports of fees collected by the clerk showing date of report, date of collection, from whom received, purpose of payment, date of report, and signature of clerk. This record is now obsolete.	Retain 10 years after clerk’s tenure is broken, then destroy.	Keep for audit purposes (T.C.A. § 10-7-404(a)).
<b>04-031 General Account Ledgers (refer to execution docket)</b> —Ledger accounts of funds received from sales of property in settlement of estates, alimony payments, and payments of judgments and court costs; money distributed by the clerk showing style and number of case, date of collection, name of person from whom received, and amount; date of payment, name of payee, number of check issued, and amount; may show cash book and page number from which entry was posted.	Permanent record.	May have bearing on land title.
<b>04-032 Payroll Records</b>	See separate retention schedule in this manual for employment records.	

**Retention Schedule for Circuit and Criminal Court Clerks**

Description of Record	Retention Period	Legal Authority/ Rationale
<p><b>04-033 Receipt Books, Delinquent Tax</b>—Duplicates of receipts issued for payment of delinquent taxes, showing receipt number, date issued, name of taxpayer, amount, year of assessment, district number, number of acres of farm land, number of town lots, valuation, personal property valuation, amounts of state and county taxes, interest, penalty, and total amount of payments.</p>	<p>Retain 10 years after issuance of last receipt, then destroy.</p>	<p>T.C.A. § 18-1-202.</p>
<p><b>04-034 Unclaimed Funds, Record of</b>—Record of funds in hands of clerk unclaimed for seven years and turned over to state, showing style of case, case number, respondent, and amount.</p>	<p>Retain 10 years, then destroy.</p>	<p>Keep record for audit purposes and a reasonable period to allow interested parties to make inquiries.</p>
<b>F. Index Books</b>		
<p><b>04-035 Divorce and Adoption Cases, Index</b>—Indexes to original divorce and adoption cases, showing names of parties, style of case, case number, and file container in which record is filed. Note: Record series may contain confidential information.</p>	<p>Permanent record.</p>	<p>Necessary for use of other permanent records.</p>
<p><b>04-036 General Index</b>—Index to all original case papers, showing file number and names of complainant and respondent.</p>	<p>Permanent record.</p>	<p>Necessary for use of other permanent records.</p>
<p><b>04-037 Hospital Lien Index</b>—Index for the hospital lien book, referencing patient's name and hospital or operator.</p>	<p>Permanent record.</p>	<p>Necessary for use of other permanent records.</p>
<p><b>04-038 Judgment Index Books (see Divorce and Adoption cases, Indexes)</b></p>	<p>Permanent record.</p>	<p>Necessary for use of other permanent records.</p>
<p><b>04-039 Minute Books and Indexes</b>—Minutes show the course and proceedings in all cases from their origin to termination, giving name of defendant, offense charged, date of trial, verdict of jury, and sentence of the court.</p>	<p>Permanent record.</p>	<p>Necessary for use of other permanent records.</p>
<b>G. Process, Court Orders, Writs, Etc.</b>		
<p><b>04-040 Affidavit of Complaint</b>—A written statement alleging that a person has committed an offense and alleging the essential facts instituting the offense charged made upon oath before a magistrate or court clerk.</p>	<p>Permanent record.</p>	<p>T.C.A. § 18-1-202(a).</p>
<p><b>04-041 Attachments on Personal Property</b>—Writs issued during court action to seize the personal property of the defendant to be held as security for the satisfaction of such judgment as the plaintiff may recover.</p>	<p>Retain 10 years after final settlement of case, then destroy.</p>	<p>T.C.A. § 18-1-202(a).</p>
<p><b>04-042 Attachments on Real Property</b>—Writs issued during court action to seize the real property of the defendant to be held as security for the satisfaction of such judgment as the plaintiff may recover.</p>	<p>Retain 10 years after final settlement of case, then destroy.</p>	<p>T.C.A. § 18-1-202(a).</p>
<p><b>04-043 Capias</b>—The general name for several types of writs which require an officer to take the body of</p>	<p>Permanent record.</p>	<p>This record is in the nature of original process ( T.C.A. §</p>

**Retention Schedule for Circuit and Criminal Court Clerks**

Description of Record	Retention Period	Legal Authority/ Rationale
the defendant into custody; they are writs of attachment or arrest.		18-1-202(a)).
<b>04-044 Criminal Citation</b> —A demand that the defendant cited appear in court at a stated time to answer to a misdemeanor charge. The citation states the name and address of the person cited, the name of the issuing officer and the offense charged.	Retain for 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>04-045 Executions</b> —Writs or orders providing that an act or course of conduct be carried out.	Retain 10 years after issuance, then destroy.	T.C.A. § 18-1-202(a).
<b>04-046 Fieri Facias</b> —Court orders to levy execution on property, sell the same, and apply the proceeds to the satisfaction of judgments in court; shows names of complainant and respondent, description of property, and amount involved; an execution.	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>04-047 Garnishments</b> —Process whereby defendant's property in possession or control of another is applied to payment of defendant's debt. Shows names of court, plaintiff, and defendant, total costs, and reporting date.	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>04-048 Habeas Corpus, Writs of</b> —Writs issued to change the place of trial, to move from custody of one court to another, directing that a detained person be produced, etc.	Permanent record.	This record is in the nature of original process ( T.C.A. § 18-1-202(a)).
<b>04-049 Mittimus</b> —Commitments to jail, showing name of person committed, offense charged, name of prosecutor, amount of bail, date, and signature of clerk of the court.	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>04-050 Replevin Warrants (Writs of Possession)</b> —Writs giving authority to recover goods or chattels claimed to be wrongfully taken or kept.	Permanent record when used as leading process (now obsolete), otherwise retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>04-051 Search Warrants</b> —A written order issued in the name of the state and directed to a law enforcement officer commanding him to search a specific house, business establishment, or other premise for	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>04-052 Subpoenas</b> —Copies of summonses to appear in court as witnesses in lawsuits, showing name of person summoned, day and hour to appear, in whose behalf, and signature of the clerk.	In criminal cases, retain 10 years, then destroy; in civil cases, retain three years, then destroy.	T.C.A. § 18-1-202(a)—(b).
<b>04-053 Warrants</b> —Writs issued in both civil and criminal cases requiring an officer of the law to arrest the person named therein and bring him before the court to answer charges of some offense which he is alleged to have committed.	Permanent record.	T.C.A. § 18-1-202(a).
Exception: Unserved Misdemeanor Warrants	Unserved misdemeanor warrants—five years	T.C.A. § 40-6-206.
<b>04-054 Writ of Possession</b> —A writ employed to enforce a judgment to recover possession of land.	Permanent record.	Could have bearing on land title.
<b>H. Reports</b>		
<b>04-055 Audit Reports</b> —Audit reports show name of office, fund or account, account of all receipts and disbursements, date of audit and signature of auditor.	Preserve permanently	Record has historical significance.

**Retention Schedule for Circuit and Criminal Court Clerks**

Description of Record	Retention Period	Legal Authority/ Rationale
<p><b>04-056 Delinquent Tax Collections Reports—</b> Copies of reports made by the clerk to the cities, county, and state of tax collections in litigation, showing docket number, case number, names of complainant and respondent, amount collected, total, and date of report.</p>	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<p><b>04-057 Grand Jury Reports—</b>Record of grand jury actions, showing name of defendant, offense charged, testimony of witnesses, whether indictment or no true bill is returned, and recommendations.</p>	Retain 10 years and until spread in minutes, then destroy.	T.C.A. § 18-1-202(a).
<p><b>04-058 Litigation Tax Reports—</b>A record of all state and county litigation taxes collected by the clerk showing number of cases and amount received.</p>	Retain 10 years after last entry, then destroy.	Keep for audit purposes (T.C.A. § 10-7-404).
<p><b>04-059 Revenue Dockets or Reports—</b> Record of reports to the county judge or county mayor of state and county revenue collected by the clerk and remitted to the trustee and state, showing date and source of collection, date reported, certification of clerk, and amounts of taxes, fees, and total. Receipts from trustee and state for funds received may be posted in these volumes.</p>	Retain 10 years after clerk’s tenure is broken, then destroy.	Keep for evidence in cases of misappropriation of funds.
<p><b>04-060 Sale Books or Reports—</b>Record of court land sales, showing name of court, style of case, location and description of property, by what process land was sold, date of sale, name of purchaser, and tax collected.</p>	Permanent record.	Could have bearing on land title.
<p><b>04-061 Special Commissioners Reports—</b>Reports of special commissioners appointed when property is sold by court.</p>	Permanent record.	Could have bearing on land title.
<p><b>04-062 Worker’s Compensation Payment Records</b></p>	Retain 10 years after judgment in case, then destroy.	T.C.A. § 18-1-202(a).
<p><b>I. Other Records</b></p>		
<p><b>04-063 Adoption Files—</b>Petitions to the court for the adoption of children, all intermediate proceedings, and final decree of the court, showing, in addition to the text, name and address of petitioner, date of petition, name of child, names of parents or custodian of child, age, date of birth, sex of child, statement of financial status and character of petitioner, and signatures of petitioners, affiants, and judge. Note: Record series contains confidential information.</p>	Permanent record.	T.C.A. § 36-1-111 Has historical value and potentially significant in inheritance issues.
<p><b>04-064 Bastardy Proceedings, Records of—</b>Original papers incident to proceedings in bastardy cases including warrants, bills of cost, bonds, and court decrees showing names of plaintiff and defendant, date of trial, nature and purpose of process, and signature of issuing officer.</p>	Permanent record.	Has historical value and potentially significant in inheritance issues.
<p><b>04-065 Bastardy Cases and Changes of Names, Records of—</b>These records may include petition from subject or subject’s parent or guardian seeking name change; also court order showing subject’s name, sex, race, date and place of birth, file date, incorrect and correct information, date and signature of judge and acknowledgment of clerk.</p>	Permanent record.	Has historical value and potentially significant in inheritance issues.
<p><b>04-066 Domestic Relations Records—</b>Records pertaining to matters such as adoptions, bastardy proceedings, child custody, and divorce.</p>	Permanent record.	Has historical value and potentially significant in inheritance issues.

**Retention Schedule for Circuit and Criminal Court Clerks**

Description of Record	Retention Period	Legal Authority/ Rationale
<b>04-067 Hospital Lien</b> —A verified statement of claim setting forth the name and address of the patient and operator of the hospital, date of admission and discharge, amount claimed to be due and names and addresses of any one believed liable for damages.	Retain for 10 years, then destroy.	Statute of Limitations, T.C.A. § 28-3-110 T.C.A. § 18-1-202.
<b>04-068 Hospital Lien Book</b> —Book in which the clerk enters the date and hour of filing of a hospital lien, name and address of hospital, the operator thereof, the patient, those claimed to be liable and the amount claimed. Releases are noted on the margin of this book.	Retain for 10 years after last entry, then destroy.	Statute of Limitations, T.C.A. § 28-3-110 T.C.A. § 18-1-202.
<b>04-069 In Memoriam Books</b> —Record of deaths of members of local bar.	Permanent record.	Keep for historical value.
<b>04-070 Judgment Books</b> —Record of judgments rendered by the court, showing book and page numbers of rule docket in which case is recorded, number and style, names of plaintiff and defendant, judgment rendered, and amount of costs. This is an obsolete record.	Permanent record.	T.C.A. § 18-1-202(a).
<b>04-071 Jury Books</b> —A record of jurors serving in cases tried before this court, showing date of court, style of case, nature of action or offense charged, and names of jurors.	Retain 10 years after last entry, then destroy.	T.C.A. § 18-1-202(a).
<b>04-072 Jury Commission Records</b> —Jury commission reports from commission to court of names drawn for jury service from jury box, jury cards, etc.	Retain for 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>04-073 Jury List Book</b> —A book containing a list of names of persons qualified to serve as jurors selected by the jury commissioners.	Retain for 10 years after last entry, then destroy.	T.C.A. § 18-1-202(a).
<b>04-074 Land Condemnation Records</b> —Records pertaining to land condemned for road and sewer construction, commercial development, etc.	Permanent record.	Could have bearing on land title.
<b>04-075 Land Sale Newspaper Clippings</b> —Newspaper clippings of chancery court land sales for failure to pay delinquent taxes and for judgments settling estates for minor children, showing place of sale and description of property to be sold. Clippings are pasted in volumes.	Retain 10 years after last entry, then destroy.	T.C.A. § 18-1-202(a).
<b>04-076 Minute Books</b>	See Indexes - Minute Books and Indexes.	
<b>04-077 Naturalization Records</b> —Records of proceedings in the naturalization of aliens including certificates of arrival, declarations of intention, petitions, affidavits of witness who has known the petitioner for at least 5 years, oaths of allegiance, and orders of the court conferring rights and privileges of citizenship upon petitioner.	Permanent record. (These records are not usually found today in Circuit Court records.)	Important for historical purposes and for establishing citizenship.
<b>04-078 Plan and Plat Records</b> —Drawings and blueprints of forms, subdivisions, cemeteries, city lots, and street improvements, showing name of subject, date of drawing, boundaries, scale used, location, name of engineer making survey, name of draftsman, and certificate of registration.	Permanent record.	Could have bearing on land title.
<b>04-079 Receipts for Papers</b> —Record of all files and papers removed from the office, showing date and by whom taken, and date returned.	Retain until all files and papers are returned, then destroy according to rules of the Public Records	Working paper (T.C.A. § 10-7-406(b)).

**Retention Schedule for Circuit and Criminal Court Clerks**

Description of Record	Retention Period	Legal Authority/ Rationale
<b>04-080 Sale Books</b> — Record of court land sales, showing name of court, style of case, location and description of property, by what process land was sold, date of sale, name of purchaser, and tax collected.	Commission.	
<b>04-081 Sheriff’s Receipt Books</b> —Book used by execution clerks to record and control the execution and flow of fieri facias and other process to be returned by sheriff.	Permanent record.	Could have bearing on land title.
<b>04-082 Witness Books</b> —Record of witnesses appearing in court cases, showing date of court term, style of case, names of witnesses for complain-ant, names of witnesses for respondent, number of days attended, miles traveled, amount due, and date of payment.	Retain 10 years after last entry, then destroy.	T.C.A. § 18-1-202(a).
	Retain 10 years after last entry, then destroy.	T.C.A. § 18-1-202(a).

**OBSOLETE RECORDS**

<b>04-083 Enrollment Books</b> — Recorded copies of original process incident to civil cases, showing names of plaintiff and defendant, cause of action, dates of trial and disposal of case, nature and text of process filed, and date recorded; may include bills and petitions, answers and pleas, and depositions. This is an obsolete record.	Permanent record. No longer generated. Keep for historical value.	
<b>04-084 Retired Cases Dockets</b> —Record of cases disposed of or retired by the court, showing case number, date retired, names of complainant, respondent, and attorneys; also date of filing, rule docket and page number of recordation, dates and text of orders of the court; and volume and page number of recordation in minute book.	Obsolete record no longer in use. Retain 10 years, after last entry, then destroy.	
<b>04-085 Subpoena and Commission Dockets</b> —Record of subpoenas and commissions issued authorizing persons to take depositions, showing date of entry, style of case, nature of action, kind of writ, how served, and disposition of the case.	Obsolete record no longer generated. Return 10 years after last entry, then destroy.	

**Clerk and Master Records Retention Schedule**

Reference Number:  
CTAS-2053

**Clerk and Master Records.** The records included in this schedule are those for the office of the clerk and master. Many of the materials in this schedule will also be important to county clerks that serve as clerks for probate court. They are divided into different sections based on the types of records. Records that may be kept in the same format by several county offices (such as employment records, purchasing records, etc.) will be found listed under topical retention schedules in this manual. Included in this table is a listing of “obsolete” records. Your office should no longer be generating these records. They are still included in the disposition schedule so that anyone discovering those materials in older records of the office will know how to deal with them. To a certain extent, the records kept by county offices vary from county to county in either the format of record kept, the name given to the record or the frequency of its occurrence. This is particularly true of court records which may vary according to local rule and practice and especially



confusing concerning the varying forms of docket books that courts may have utilized over the years. The fact that a certain record is listed in this schedule does not necessarily indicate that you should have it in your office. It may be a format for record-keeping that was never utilized in your county, or you may keep the record under a different name. If you have records in your office that are not listed in this schedule by name, check the descriptions of the records to see if we may have called it by a different term. If you still cannot locate any entry relative to the record, contact us at the County Technical Assistance Service for guidance in determining the proper disposition of the record and so that we can make note of that record's existence to include it in future revisions of this manual.

### Retention Schedule for the Office of the Clerk and Master

Description of Record	Retention Period	Legal Authority/ Rationale
<b>A. Civil Action Files</b>		
<b>05-001 Briefs</b> —Statements of the case, legal theory and arguments for a party in a case.	Maintain for three years after final disposition of case, then notify parties and destroy.	T.C.A. § 18-1-202(b).
<b>05-002 Chancellor's Opinions</b> —Statements by the chancellor of the decision reached in regard to a cause heard before him relating the law as applied to the case and giving reasons on which the judgment is based.	Permanent record.	T.C.A. § 18-1-202(a).
<b>05-003 Civil Actions, Record of</b> —All original process, pleadings, chancellor's opinions and orders in each civil case, motions, master's reports, affidavits, etc.	Permanent record.	T.C.A. § 18-1-202(a).
<b>05-004 Discovery Records</b> —Interrogatories, depositions and other legal devices to obtain information concerning a case prior to trial.	Maintain for three years after final disposition of the case, then notify parties and destroy.	T.C.A. § 18-1-202(b).
<b>05-005 Doctor's Depositions in Worker's Compensation Cases</b>	See Trial Exhibits and Evidence, below.	
<b>05-006 Summonses</b> —A writ notifying a person that a court action has been commenced against him, and that he is required to appear on a day named and answer the complaint in such action.	Permanent record.	T.C.A. § 18-1-202(a).
<b>05-007 Trial Exhibits and Evidence</b> —Any documentary evidence and exhibits presented at trial that become part of the record of the case. For physical evidence, see T.C.A. § 18-1-206.	Retain 10 years after final judgment, then destroy unless local rule of court provides for a different retention period.	T.C.A. § 18-1-202(a).
<b>B. Bonds</b>		
<b>05-008 Appearance and Bail Bond Records</b> —Bonds and recordings of bonds executed by defendants and sureties showing defendant's name, name of person serving as surety, amount of bond, and signatures of the accused and sureties.	Retain 10 years after final judgment, then destroy.	T.C.A. § 18-1-202(a).
<b>05-009 Attachment and Injunction Bonds</b> —Bonds executed in attachment and injunction cases insuring defendant against damages likely to occur as a result of wrongful suing, showing date of bond, names of principal and sureties, amount of bond, condition of the obligation, and signatures of principal and sureties.	Retain 10 years after final judgment, then destroy.	T.C.A. § 18-1-202(a).
<b>05-010 Cost Bonds, Civil Cases</b> —Bonds executed to insure payment of court costs, showing names of plaintiff and defendant, amount and date of bond, condition of the obligation, and	Retain three years after final judgment, then destroy.	T.C.A. § 18-1-202(b).

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
<p>signatures of principal and sureties.  <b>05-011 Guardian’s Bonds</b>—Loose file original bonds executed by guardians to insure the discharge of duties obligations, showing names of estate, guardian, minors, and sureties, amount of bond, date executed, conditions of the obligation, date of approval by the court, and signatures of principal, sureties, and judge.</p>	<p>Retain 10 years after final judgment, then destroy.</p>	<p>T.C.A. § 18-1-202(a).</p>
<p><b>05-012 Miscellaneous Bond Books</b>—Receivers', indemnifying, appearance, cost, refunding, replevin, etc., bonds, showing names of principal and sureties, style of case, amount and date of bond, condition of the obligation, and signatures of principal and sureties.</p>	<p>Retain 10 years after release, replacement or expiration of all bonds in book, then destroy.</p>	<p>T.C.A. § 18-1-202(a).</p>
<p><b>C. Dockets [Note: Dockets are kept in varying formats in different courts. Not all of the following dockets may be found or kept in your court. Much of the information may be combined into one docket or maybe be kept electronically pursuant to T.C.A. § 10-7-121. Except for Mental Health and Adoption Dockets, most other dockets may now consolidated into a single docket. The fact that separate listings are given for dockets below does not mean that these records must be kept separately.]</b></p>		
<p><b>05-013 Alimony and Child Support Dockets &amp; Ledgers</b>—Docket shows date alimony and child support paid to court clerk, date paid out by him or her, name of person to whom paid, and amount.</p>	<p>Retain 25 years after last entry, then destroy.</p>	<p>Retention period based on period of dependency of minor.</p>
<p><b>05-014 Appeal Dockets</b>—Record of cases going to appellate courts showing style of case, date, and ruling of the court; may show court costs.</p>	<p>Retain 10 years after last entry, then destroy.</p>	<p>T.C.A. § 18-1-202(a).</p>
<p><b>05-015 Appearance and Rule Dockets</b>—Record of first appearance of all causes in court, showing date filed, names of attorneys, style of case, security, and action taken.</p>	<p>Permanent record.</p>	<p>T.C.A. § 18-1-202(a).</p>
<p><b>05-016 Bar Dockets (aka Hearing Dockets, Trial Dockets, or Judge’s Docket Sheets)</b>—A record prepared for the use of the chancellor, clerk and master and bar, listing all cases set for trial in court, showing date of court term, case number, names of attorneys, plaintiff, defendant, date case filed; may also show page and volume number or recordation in minute book. This is basically a working paper, but may have record value in some counties.</p>	<p>As long as the information in this record series is found in other records which are retained for 10 years, these are considered working papers records and may be destroyed when no longer useful.</p>	<p>T.C.A. § 10-7-406(b).</p>
<p><b>05-017 Delinquent Tax Docket Book</b>—Record of property taken over by the county, showing description of property, whether redeemed or not, by whom redeemed, amount of taxes, date, and decree of court relevant to property.</p>	<p>If the county maintains this information in this format, retain as a permanent record.</p>	<p>These records could have bearing on land title and therefore need to be maintained.</p>
<p><b>05-018 Distribution Dockets</b>—Dockets showing the detailed distribution of funds belonging to an estate, etc.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. May also contain information affecting land title.</p>
<p><b>05-019 Execution Dockets and Indexes</b>—A financial record of cases tried, showing date or court term, style of case, nature of action, amount of judgment and cost, and amount and</p>	<p>Permanent record.</p>	<p>T.C.A. § 18-1-202(a).</p>

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
<p>date paid.</p> <p><b>05-020 Guardian and Trustee Dockets</b>—Record of proceedings pertaining to guardianships and trusteeships showing names of guardians, trustees, minors, trustors, etc., amount of bond, names of sureties, and date executed; may also include dates, letters and orders issued, dates of annual and final settlements, and book and page number of recordings in minute book.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. May also contain information affecting land title.</p>
<p><b>05-021 Motion Dockets</b>—Docket shows names of plaintiff and defendant, date motion filed, nature of motion, and remarks.</p>	<p>As long as information in these records is found in other records which are retained for 10 years, these are considered working papers and may be destroyed when no longer useful.</p>	<p>T.C.A. § 10-7-406(b).</p>
<p><b>05-022 Rule Dockets and Indexes</b>—A record of original processes issued and filed incident to cases tried in court, showing number of case, date and hour filed, names of complainant, respondent, and solicitors; also date and nature of process, names of bondsmen, date process served, note of officer's return, and rules and orders of the court.</p>	<p>Permanent record.</p>	<p>T.C.A. § 18-1-202(a).</p>
<p><b>05-023 Worker's Compensation Dockets</b>—Docket shows name of person applying for compensation, date of application, date and amount of judgment, and accrued costs.</p>	<p>Permanent record.</p>	<p>T.C.A. § 50-6-225.</p>
<p><b>D. Financial Records</b>—The disposition schedule for many of the financial records of the court can be found in schedule number 15 in this manual, entitled General Accounting and Purchasing Records. The items included below are those financial records unique to the office of the clerk and master.</p>		
<p><b>05-024 Fee Books</b>—A record of fees collected by the clerk and master in court litigation, showing date of collection, from whom received, on what account, style of case, and amount collected. This book is no longer used in most counties.</p>	<p>Retain 10 years after clerk's tenure is broken, then destroy. May be obsolete.</p>	<p>T.C.A. § 18-1-202.</p>
<p><b>05-025 General Account Ledgers (refer to execution docket)</b>—Ledger accounts of funds received from sales of property in settlement of estates, alimony payments, and payments of judgments and court costs; money distributed by the clerk and master showing style and number of case, date of collection, name of person from whom received, and amount; date of payment, name of payee, number of check issued, and amount; may show cash book and page number from which entry was posted.</p>	<p>Permanent record.</p>	<p>May have bearing on land title.</p>
<p><b>05-026 Investment Ledger</b>— Record of funds belonging to estates and ordered to be invested.</p>	<p>Permanent record.</p>	<p>This record may have significance to the parties for decades.</p>
<p><b>05-027 Notes</b>—Original notes submitted to the clerk for funds loaned by order of the court, showing date and amount of note, date due, style of case from which funds are loaned, and signatures of principal and sureties; may also be notes executed to the clerk and master as</p>	<p>Retain 10 years after payment of note, then destroy.</p>	<p>This record has long term significance to the parties. May also contain information affecting land title.</p>

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
payment for real estate purchased at court sales.	See separate retention schedule in this manual for employment records.	
<b>05-028 Payroll Records</b>		
<b>05-029 Receipt Books</b> —Duplicates of receipts issued for payment of judgments and costs in litigation, showing date of receipt, name of payor, amount and purpose of payment, names of complainant and respondent, and signature of clerk and master.	Retain 10 years after issuance of last receipt, then destroy.	T.C.A. § 18-1-202(a).
<b>05-030 Receipt Books, Delinquent</b>		
<b>Tax</b> —Duplicates of receipts issued for payment of delinquent taxes, showing receipt number, date issued, name of taxpayer, amount, year of assessment, district number, number of acres of farm land, number of town lots, valuation, personal property valuation, amounts of state and county taxes, interest, penalty, and total amount of payments.	Retain 10 years after issuance of last receipt, then destroy.	T.C.A. § 18-1-202(a).
<b>05-031 Unclaimed Funds, Record of</b> —Record of funds in hands of clerk unclaimed for 7 years and turned over to state, showing style of case, case number, respondent, and amount.	Retain 10 years, then destroy.	Record kept for audit purposes and a reasonable period to allow interested parties to make inquiries.
<b>E. Guardian and Conservatorship Records</b>		
<b>05-032 Administrator and Guardian Notifications (Appointments), Record of</b> —A record of notification of appointments to guardian and administrators, showing date of official notice, name of ward or estate, and date of final settlement with the court.	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.
<b>05-033 Conservator’s Bonds</b> —Loose file original bonds executed by conservators to guarantee performance of duties showing names of persons for whom responsible, amount of bond, date executed, conditions of the obligation, approval of the judge, and signatures of principal, sureties, and judge.	Retain 10 years after expiration of bond, then destroy.	T.C.A. § 18-1-202.
<b>05-034 Conservator’s Bonds, Record of</b> —Bound original and/or recorded copies of conservator’s bonds.	Retain 10 years after expiration of bond, then destroy.	T.C.A. § 18-1-202.
<b>05-035 Conservator’s Settlements, Record of</b> — Recorded copies of conservator’s settlements with the court showing name of person for whom responsible, name of conservator, date of appointment, receipts and disbursements during the period reported, totals, balance due, date of settlement, acknowledgment and approval of the court, date recorded, and signature of the clerk.	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.
<b>05-036 Guardians’ Bonds and Letters, Record of</b> — Bound original and/or recorded copies of guardians' bonds. Letters show names of guardian, estate, and minors, order of the court, date issued, and name of the clerk.	Retain 10 years after expiration of bond, then destroy.	T.C.A. § 18-1-202.
<b>05-037 Guardian Files</b> —These files may include orders, petitions, claims, bills of costs, inventories, accounts, receipts, settlements, and recapitulations. All of these records except petitions should be recorded.	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
<p><b>05-038 Guardian Rule Dockets</b>—Record of all proceedings pertaining to guardianship of minors, showing names of guardian and minors, amount of bond, names of sureties, date executed, date letter of guardianship issued, dates of annual and final settlement by guardian, dates of orders confirming settlements, and book and page number of recording in minute book.</p>	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.
<p><b>05-039 Guardian Settlements, Record of</b>—Recorded copies of settlements filed by guardians showing whether partial or final, name of guardian, name of minor, date of report, amounts of receipts and disbursements, name of payee, and purpose of payment.</p>	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.
<p><b>05-040 Ward Receipts</b>—Show testimony of ward and receipt for all demands against the guardian when ward has become 21 years old. Receipt shows date, name of guardian and ward, and description of items.</p>	Retain 10 years after termination of the guardianship, then destroy.	Retention period established to cover period of time during which a controversy might arise.
<b>F. Index Books</b>		
<p><b>05-041 Divorce and Adoption Cases, Index</b>—Indexes to original divorce and adoption cases, showing names of parties, style of case, case number, and file container in which record is filed. NOTE: Record series may contain confidential information.</p>	Permanent record.	Necessary for use of other permanent records.
<p><b>05-042 General Index</b>—Index to all original case papers, showing file number and names of complainant and respondent.</p>	Permanent record.	Necessary for use of other permanent records.
<p><b>05-043 Guardian Index</b>—Index to guardians showing name of guardian and book and page number of recording.</p>	Permanent record.	Necessary for use of other permanent records.
<p><b>05-044 Judgment Index Books (see Divorce and Adoption cases, Indexes)</b></p>	Permanent record.	Necessary for use of other permanent records.
<p><b>05-045 Minute Books and Indexes</b>—Minutes show the course and proceedings in all cases from their origin to termination, giving name of defendant, offense charged, date of trial, verdict of jury, and sentence of the court.</p>	Permanent record.	Necessary for use of other permanent records.
<b>G. Probate Court Records (transferred to Clerk and Master in most counties)</b>		
<p><b>05-046 Abstracts of Conveyances</b>—Record of real estate transfers in probate court showing amount of sale, date of transaction, names of parties to the transfer, and dates recorded.</p>	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.
<p><b>05-047 Administrator’s Bonds</b>—Loose file original bonds executed by administrators to guarantee the performance of duties, showing names of estate, administrator, sureties, amount of bond, date executed, conditions of the obligation, approval of the judge, and signatures of principal, sureties, and judge.</p>	Retain for 10 years after expiration of bond, then destroy.	T.C.A. § 18-1-202.
<p><b>05-048 Administrator’s Bonds and Letters, Record of</b>—Bound original and/or recorded copies of administrators’ bonds; also letters showing names of administrator and estate, order of the court, date issued and name of the clerk. Oaths to perform the will of the deceased, or for</p>	Retain for 10 years after expiration of bonds, then destroy.	T.C.A. § 18-1-202.

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
faithful performance of duties, may also be included.		
<b>05-049 Administrator’s Files (Wills may be Annexed)</b> —These files may include orders, petitions, claims, bills of cost, inventories, accounts, receipts, settlements, and recapitulations.	Permanent record.	Since these files include orders, preserve permanently (T.C.A. § 18-1-202). It is also necessary to permanently preserve original of all wills.
<b>05-050 Administrator’s Rule Dockets</b> —An account of proceedings pertaining to settlements of administrators showing name of administrator, amount of bond, names of sureties, date of letter of administration or statement, book and page number of recordation, dates of partial and final settlements, date of filing, and dates of court orders confirming settlements.	Permanent record.	Rule dockets are maintained permanently (T.C.A. § 18-1-202).
<b>05-051 Administrator’s Settlements, Record of</b> — Recorded copies of administrators' settlements with the probate court showing name of deceased, name of administrator, date of appointment, book and page number where will is recorded, receipts and disbursements during the period reported, totals, balance due estate, date of settlement, acknowledgment and approval by the court, date recorded, and signature of the clerk.	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.
<b>05-052 Estate Receipts of Executors, Administrators, and Clerk</b> —Original receipts taken by the clerk for disbursement of funds incident to estate settlements showing date of receipt, amount and purpose of payment, signature of payee, and source from which funds were derived. Also includes affidavits of heirs who have become of age, acknowledging settlement for their portions of estate involved, showing names of guardian and heir, date and amount of settlement, date of affidavit, and signature of heir. These may be loose files or bound volumes.	Permanent record. Preserve original bound volumes permanently.	This record has long term significance to the parties.
<b>05-053 Estate Sales, Accounts of</b> —Itemized accounts of sales of estates of deceased persons as submitted to the county court by administrators, showing date and nature of all transactions.	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.
<b>05-054 Estate Settlement Files</b>	Permanent record.	This record has long term significance to the parties. May also contain information affecting land title.
<b>05-055 Executor’s Bonds</b> —Loose file original bonds executed by executors to guarantee the performance of all duties, showing names of principal and sureties, amount of bond, date executed, conditions of the obligation, date of approval by the judge, and signatures of principal, sureties, and judge.	Preserve originals permanently if not microfilmed; if microfilmed, retain 30 years, then destroy.	These records have been determined to have significant historical material.
<b>05-056 Executor’s Bonds and Letters</b>	Permanent record.	These records have been

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
<p><b>Index</b>—Index to executors' bonds and letters showing name of executor and book and page number of recording.</p>		<p>determined to have significant historical material.</p>
<p><b>05-057 Executor's Bonds and Letters, Record of</b>— Bound original and/or recorded copies of executors' bond; also letters showing names of administrator and estate, order of the court, date issued, and name of the clerk. Oaths to perform the will of the deceased, or for faithful performance of duties may also be included.</p>	<p>Preserve originals permanently if not microfilmed; if microfilmed, retain 30 years after last issued bond, then destroy.</p>	<p>These records have been determined to have significant historical material.</p>
<p><b>05-058 Executor's Files</b>—These files may include orders, petitions, claims, bills of costs, inventories, accounts, receipts, settlements, recapitulations, and wills. All of these records except petitions should be recorded.</p>	<p>Preserve originals of all orders, distributed receipts, &amp; inheritance tax receipts not microfilmed; if microfilmed, originals may be destroyed after final settlement. Preserve permanently original of all wills. Retain all other records in file 10 years if not microfilmed, then destroy; if microfilmed, destroy after final settlement of estate.</p>	<p>These records have been determined to have significant historical material. Any court orders must be preserved permanently.</p>
<p><b>05-059 Executor's Rule Dockets</b>—An account of proceedings pertaining to settlements of executors showing name of administrator or executor, amount of bond, names of sureties, date of letter of administration or testament, book and page number of recordation, dates of partial and final settlements, date of filing, and dates of court orders confirming settlements.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. May also contain information affecting land title.</p>
<p><b>05-060 Executor's Settlements, Record of</b>— Recorded copies of executors' partial and final settlements with probate court showing names of estate and executor, date of appointment, book and page number where will is recorded, receipts and disbursements during the reported period, totals, balance due estate, date of settlement, acknowledgment and approval of the court, date recorded, and signature of the clerk.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. May also contain information affecting land title.</p>
<p><b>05-061 Homestead, Dower and Dissent Records</b>— Original papers, including petitions to county court asking for appointment of commissioners to set aside homestead and dower sufficient for needs of widow and family pending settlement of estates, oaths of commissioners with signatures, date of oath and signature of county court clerk administering oath, reports of commissioners showing recommendations regarding portion of estate that may be set aside, and itemized list of items to be included, and petition and orders in case where spouse of deceased dissents from the will.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. May also contain information affecting land title.</p>
<p><b>05-062 Insolvent Estates Proceedings, Record of</b>— Record of proceedings in the settlement of insolvent estates including administrator's suggestion of insolvency, showing</p>	<p>Permanent record.</p>	<p>Certain of these materials may significantly affect land title and property rights.</p>



**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
<p>names of estate and administrator, date filed, court's order for publication of notice to creditors to file claims; list of claims filed showing date filed, number of claims, name of claimant, date due, and signature of person to whom payment is made.</p>		
<p><b>05-063 Inventories of Estates, Record of</b>—Recorded inventories of estates of deceased persons listing all property belonging to the estate and value of each item, showing name of administrator, executor, or guardian filing same, date filed, and date sworn to and subscribed before a notary public of the clerk.</p>	<p>Unless materials are all and obviously of historical significance, retain 10 years, then destroy.</p>	<p>T.C.A. § 18-1-202.</p>
<p><b>05-064 Land Sales, Record of</b>—Record of land sales authorized by the court at the instance of heirs showing style of case, date of sale, name of purchaser, amount of consideration, date and terms of payment, and distribution of funds received from sale.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. Contains information affecting land title.</p>
<p><b>05-065 Notes, Record of</b>—Record of notes executed by purchasers of land sold by decree of the court in settlement of estates, showing number of note, date executed, date due, amount of note, district number, names of complainant and respondent, and signatures of purchaser and surety; on reverse side of note a record of payments showing amount, date paid, and signature of the clerk.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. Contains information affecting land title.</p>
<p><b>05-066 Probate Court Minutes</b>—Recorded minutes of probate court proceedings, including the appointment of administrators, executors, and guardians, estate settlements, probation of wills, adoption and insanity hearings, and the dispatch of all probate matters coming within the jurisdiction of probate court.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. May also have historical significance.</p>
<p><b>05-067 Realty Transfer Record—Probate Court</b>— Record of real estate transfers showing amount of sales, date of transaction, names of parties to transfer, description of property by metes and bounds, and date recorded.</p>	<p>Permanent record.</p>	<p>This record has long term significance to the parties. Contains information affecting land title.</p>
<p><b>05-068 Receipt Books (aka Distribution of Estates Books)</b>—Original receipts made to the clerk for money paid out by him in transacting the business of the court. An example: the settlement of estates and the sale of land for purpose of petition, showing date of payment, and clerk's signature. Receipts may be pasted in volume.</p>	<p>Permanent record.</p>	<p>May include important information for tracing land title transfers.</p>
<p><b>05-069 Receipts, Miscellaneous</b>—Duplicates of receipts issued by the clerk for money received by him in process of settlements with agents of estates, showing date of receipt, amount received, name of payor, purpose of payment, and clerk's signature.</p>	<p>Retain five years, then destroy.</p>	<p>Keep for audit purposes. T.C.A. § 10-7-404(a).</p>
<p><b>05-070 Rule Dockets</b>—Record of suits for sales of land, partitioning of estates, and habeas corpus proceedings showing names of attorneys, plaintiff, and defendant, process and rules, date petition</p>	<p>Permanent record.</p>	<p>Rule dockets are retained permanently ( T.C.A. § 18-1-202).</p>

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
<p>filed, date set for hearing, subpoenas to answer, date bond filed; may also include decree date of the court and final disposition of the case.</p>	Permanent record.	See Administrator’s Files.
<p><b>05-071 Settlements</b>—See Administrator's Files. <b>05-072 Trustees and Assignees’ Bonds and Oaths</b>—</p>	Permanent record.	See Administrator’s Files.
<p>Loose file original bonds of trustees and assignees appointed for benefit of creditors, showing name of appointee, by whom appointed, date and amount of bond, and signatures of principal and sureties; also oath to perform faithfully all duties imposed by law, to make an inventory of all goods, chattels, lands and other assets conveyed to him, and to return or cause to be filed in the clerk's office an account of all sales, and moneys received, or securities taken; shows acknowledgment of the clerk.</p>	Retain five years after release, replacement or expiration of bond, then destroy.	Maintain for audit purposes (T.C.A. § 10-7-404(a)).
<p><b>05-073 Trustees and Assignees’ Bonds and Oaths, Record of</b>—Bound original and/or recorded copies of trustees' and assignees' bonds and oaths.</p>	Retain five years after release, replacement or expiration of all bonds in bound volumes, then destroy.	Maintain for audit purposes (T.C.A. § 10-7-404(a)).
<p><b>05-074 Widows’and Orphans’Provisions ,Record of</b> — A record of provisions made by the court for the support of widows and orphans, showing itemized account of commodities and cash provided.</p>	Permanent record.	Record has historical significance.
<p><b>05-075 Wills</b>—Original wills filed for probate and recording showing name of testator, date instrument executed, names of legatees, provisions for the partition, distribution, and administration of the state, names of witnesses and testator, clerk's notation of the court's action, and book and page number of recordation.</p>	Permanent record.	This record has long term significance to the parties. Contains information affecting land title.
<p><b>05-076 Wills, Record of</b>—Recorded copies of wills showing name of testator, date instrument executed, names of legatees, provisions for the partition, distribution, and administration of the estate, names of witnesses and testator, date of probation, and approval of the court.</p>	Permanent record.	This record has long term significance to the parties. Contains information affecting land title.
<b>H. Process, Court Orders, Writs, Etc.</b>		
<p><b>05-077 Attachments on Personal Property</b>—Writs issued during court action to seize the personal property of the defendant to be held as security for the satisfaction of such judgment as the plaintiff may recover.</p>	Retain 10 years after final settlement of case, then destroy.	T.C.A. § 18-1-202(a).
<p><b>05-078 Attachments on Real Property</b>—Writs issued during court action to seize the real property of the defendant to be held as security for the satisfaction of such judgment as the plaintiff may recover.</p>	Retain 10 years after final settlement of case, then destroy.	T.C.A. § 18-1-202(a).
<p><b>05-079 Executions</b>—Writs or orders providing that an act or course of conduct be carried out.</p>	Retain 10 years after issuance, then destroy.	T.C.A. § 18-1-202(a).
<p><b>05-080 Fieri Facias</b>— Court orders to levy execution on property, sell the same, and apply the proceeds to the satisfaction of judgments in court; shows names of complainant and</p>	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
respondent, description of property, and amount involved; an execution.		
<b>05-081 Garnishments</b> —Process whereby defendant's property in possession or control of another is applied to payment of defendant's debt. Shows names of court, plaintiff, and defendant, total costs, and reporting date.	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>05-082 Habeas Corpus, Writs of</b> —Writs issued to change the place of trial, to move from custody of one court to another, directing that a detained person be produced, etc.	Permanent record.	This record is in the nature of original process (T.C.A. § 18-1-202(a) 0.
<b>05-083 Replevin Warrants (Writs of Possession)</b> — Writs giving authority to recover goods or chattels claimed to be wrongfully taken or kept.	Permanent record when used as leading process (now obsolete), otherwise retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>05-084 Subpoenas</b> —Copies of summonses to appear in court as witnesses in lawsuits, showing name of person summoned, day and hour to appear, in whose behalf, and signature of the clerk.	In civil cases, retain three years, then destroy.	T.C.A. § 18-1-202(b).
<b>05-085 Warrants</b> —Writs issued in both civil and criminal cases requiring an officer of the law to arrest the person named therein and bring him before the court to answer charges of some offense which he is alleged to have committed.	Permanent record.	T.C.A. § 18-1-202(a).
<b>05-086 Writ of Possession</b> —A writ employed to enforce a judgment to recover possession of land.	Permanent record.	Could have bearing on land title.
<b>05-088) Clerk and Master (Financial) Reports</b> — Reports submitted to the chancellor by the clerk and master on receipts and disbursements of this office, showing date, source, and amount of receipt; also purpose, date, and amount of disbursement, and date reported.	Retain 10 years, then destroy.	Keep for audit purposes (T.C.A. § 10-7-404(a)).
<b>05-089 Delinquent Tax Collections Reports</b> —Copies of reports made by the clerk to the cities, county, and state of tax collections in litigation, showing docket number, case number, names of complainant and respondent, amount collected, total, and date of report.	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>05-090 Litigation Tax Reports</b> —A record of all state and county litigation taxes collected by the clerk showing number of cases and amount received.	Retain 10 years after last entry, then destroy.	Keep for audit purposes. T.C.A. § 10-7-404(a).
<b>05-091 Revenue Dockets or Reports</b> —Record of reports to the county judge or county mayor of state and county revenue collected by the clerk and remitted to the trustee and state, showing date and source of collection, date reported, certification of clerk, and amounts of taxes, fees, and total. Receipts from trustee and state for funds received may be posted in these volumes.	Retain 10 years after clerk's tenure is broken, then destroy.	Keep for use as evidence in case of misappropriation of funds.
<b>05-092 Sale Books or Reports</b> —Record of court land sales, showing name of court, style of case, location and description of property, by what	Permanent record.	Could have bearing on land title.

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
process land was sold, date of sale, name of purchaser, and tax collected.		
<b>05-093 Special Commissioners Reports</b> —Reports of special commissioners appointed when property is sold by court.	Permanent record.	Could have bearing on land title.
<b>05-094 Worker’s Compensation Payment Records</b>	Retain 10 years after judgment in case, then destroy.	T.C.A. § 18-1-202(a).
<b>J. Other Records</b>		
<b>05-095 Adoption Files</b> —Petitions to the court for the adoption of children, all intermediate proceedings, and final decree of the court, showing, in addition to the text, name and address of petitioner, date of petition, name of child, names of parents or custodian of child, age, date of birth, sex of child, statement of financial status and character of petitioner, and signatures of petitioners, affiants, and judge. Note: Record series contains confidential information.	Permanent record.	T.C.A. § 36-1-111. Has historical value and long term significance to the parties.
<b>05-096 Chambers Minutes and Indexes</b> —Minute books in which are recorded decrees in matters of urgency handed down by chancellor at chambers.	Permanent record.	Has historical value.
<b>05-097 Delinquent Tax Lists</b> —Lists of delinquent real estate taxes, showing name of taxpayer, location and description of property, assessed valuation, amount of taxes due, interest, and penalty; may be posted to delinquent tax dockets.	Destroy after posting to delinquent tax dockets. If not posted to delinquent tax dockets, retain as a permanent record.	Could affect land title.
<b>05-098 In Memoriam Books</b> —Record of deaths of members of local bar.	Permanent record.	Keep for historical value.
<b>05-099 Insanity Proceedings, Record of</b> —Recorded proceedings in insanity inquisitions showing name of patient, suggestion of insanity, name of trial judge, date of trial, sworn statement of examining physicians, statements of witnesses, and final disposition of the case.	Permanent record.	Has long term significance to the parties.
<b>05-100 Insurance Policies</b> —Insurance policies on property held by deed of trust on which loans have been made, and policies naming the clerk and master beneficiary by virtue of his being receiver for the estate, showing name of company, name of agent issuing policy, date of policy, date of expiration, amount of premium, amount of coverage, and description of property covered.	Retain 10 years after expiration or replacement of policy, then destroy. T.C.A. § 18-1-202(a).	
<b>05-101 Land Condemnation Records</b> —Records pertaining to land condemned for road and sewer construction, commercial development, etc.	Permanent record.	Contains information that has bearing on land title.
<b>05-102 Land Records of Partitioning</b> —Original papers relative to suits for the sale of property including orders and decrees, notices of sale of land, lists of assets and liabilities, clerk’s reports of sales, notices of publication, and depositions relative thereto.	Permanent record.	Contains information that has bearing on land title.
<b>05-103 Land Sale Newspaper Clippings</b> —Newspaper clippings of chancery court land sales for failure to pay delinquent taxes	Retain 10 years after last entry, then destroy.	T.C.A. § 18-1-202(a).

**Retention Schedule for the Office of the Clerk and Master**

Description of Record	Retention Period	Legal Authority/ Rationale
and for judgments settling estates for minor children, showing place of sale and description of property to be sold. Clippings are pasted in volumes.		
<b>05-104 Names and Birth Dates Corrected, Records of</b> —These files may contain copies of court orders for correcting names and birth dates. Orders show subject’s name, sex, race, date of birth, place of birth, and file date; also incorrect and correct information, date and signature of county judge, and acknowledgment of the clerk. Copies of State Division of Vital Statistics forms may be filed showing two affidavits of persons knowing subject and documents used in ascertaining birth. File may also contain petition from subject seeking change in name and/or birth.	Preserve file permanently if court order is not recorded; if order is recorded, retain file 10 years, then destroy.	Has long term significance to the parties. May have historical significance (T.C.A. § 18-1-202(a)).
<b>05-105 Naturalization Records</b> —Records of proceedings in the naturalization of aliens including certificates of arrival, declarations of intention, petitions, affidavits of witness who has known the petitioner for at least five years, oaths of allegiance, and orders of the court, conferring rights and privileges of citizenship upon petitioner.	Permanent record. (These records are not usually found today in Chancery Court records.)	Important for historical purposes and for establishing citizenship. Has long term significance to the parties.
<b>05-106 Non-support Files</b> —Trial papers incident to action showing name of defendant, date of trial, bill of costs, and warrants issued.	Retain 10 years, then destroy.	T.C.A. § 18-1-202(a).
<b>05-107 Plan and Plat Records</b> —Drawings and blueprints of forms, subdivisions, cemeteries, city lots, and street improvements, showing name of subject, date of drawing, boundaries, scale used, location, name of engineer making survey, name of draftsman, and certificate of registration.	Permanent record.	Contains information that affects land title.
<b>05-108 Publication Books</b> — Book used by the clerk and master to record his issuances of all orders or publications.	Retain 10 years after, then destroy.	T.C.A. § 18-1-202(a).
<b>05-109 Witness Books</b> —Record of witnesses appearing in court cases, showing date of court term, style of case, names of witnesses for complainant, names of witnesses for respondent, number of days attended, miles traveled, amount due, and date of payment.	Retain 10 years after last entry, then destroy.	T.C.A. § 18-1-202(a).

**OBSOLETE RECORDS OF THE CLERK AND MASTER’S OFFICE**

<b>05-110 Enrollment Books</b> —Recorded copies of original process incident to civil cases, showing names of plaintiff and defendant, cause of action, dates of trial and disposal of case, nature and text of process filed, and date recorded; may include bills and petitions, answers and pleas, and depositions. This is an obsolete record.	Keep as a permanent record. No longer generated, but still must be retained.
<b>05-111 Fee Reports</b> —Reports of fees collected by the clerk and master showing date of report, date of collection, from whom received, purpose of payment, date of report, and signature of clerk and master. This record is now obsolete.	Retain 10 years after clerk’s tenure is broken, then destroy.
<b>05-112 Judgment Books</b> —Record of judgments rendered by the court, showing book and page numbers of rule docket in which case is recorded, number and style, names of plaintiff and defendant, judgment rendered, and maintained.	Permanent record. No longer generated, but must be maintained.

**OBSELETE RECORDS OF THE CLERK AND MASTER’S OFFICE**

amount of costs. This is an obsolete record.

**05-113 Retired Cases Dockets**—Record of cases disposed of or retired by the court, showing case number, date retired, names of complainant, respondent, and attorneys; also date of filing, rule docket and page number of recordation, dates and text of orders of the court; and volume and page number of recordation in minute book. Obsolete record no longer in use. Retain 10 years after last entry, then destroy.

**05-114 Subpoena and Commission Dockets**—Record of subpoenas and commissions issued authorizing persons to take depositions, showing date of entry, style of case, nature of action, kind of writ, how served, and disposition of the case. Obsolete record no longer generated. Return 10 years after last entry, then destroy.

## Trial Courts

Reference Number:

CTAS-474

Organization

The state trial courts were divided into 31 judicial districts in 1984. T.C.A. § 16-2-506. Circuit and chancery courts exist within each district, and some districts have separate criminal courts. Each judicial district selects a presiding judge who assigns cases to reduce delays, distributes the workload equitably, and promotes the orderly and efficient administration of justice in the district. T.C.A. § 16-2-509. The judges of each district must promulgate uniform rules of practice for that district. T.C.A. § 16-2-511. The administrative director of the courts maintains a list of the local rules. T.C.A. § 16-2-511.

The 1984 redistricting bill abolished the "terms of court." The minutes of all courts remain open continuously. T.C.A. § 16-2-510. Court is held within each judicial district at times set by the judges of that district and within each county in the district as needed to dispose of the court's business. T.C.A. § 16-2-510.

Circuit and chancery court judges are elected for an eight-year term by the voters of the district or circuit to which they are assigned. Tenn. Const., art. VI, § 4. A judge must be 30 years old, a Tennessee resident for five years, a resident of the circuit or district for one year (Tenn. Const., art. VI, § 4), licensed to practice law in Tennessee, and eligible under the general standards to hold public office. T.C.A. §§ 17-1-106, 8-18-101.

To facilitate the handling of cases, any judge or chancellor may exercise by interchange, appointment, or designation the jurisdiction of any trial court other than that to which he was elected or appointed. T.C.A. § 16-2-502. Legislation passed in 1997 provided that any judge sitting by interchange has the same immunity as the judge he or she is replacing and that the state or county must provide the same defense, if necessary, for the substituting judge. T.C.A. § 16-1-114.

The Tennessee Constitution provides in Article VI, Section 13 that chancellors appoint the clerk and master for a six-year term and that clerks of other inferior courts are elected for a four-year term. Clerks of court act as the principal administrative aides to the courts. Additional information about [Clerks of Court](#) can be found under County Offices.

## Jurisdiction of Circuit Court

Reference Number:

CTAS-490

The General Assembly may establish circuit courts, and may increase or diminish the jurisdiction. Tenn. Const., art. VI, §§ 1, 8. The court has general jurisdiction in all cases where jurisdiction is not conferred on another tribunal. T.C.A. § 16-10-101. The court may hear and determine suits of an equitable nature, if there is no objection, or may transfer such cases to the chancery court. If the circuit court chooses to hear an equity case, it must determine the case upon equity principles and may exercise equitable powers. T.C.A. § 16-10-111.

The circuit court has exclusive original jurisdiction in the following cases:

1. Correction of mistakes in deeds of conveyance of land or registration thereof. T.C.A. § 66-5-107;
2. Applications to restore citizenship by persons who have been rendered infamous by judgments of any court in the state. T.C.A. §§ 16-10-104, 40-29-101;

3. All matters relating to the seizure and destruction of intoxicating liquor if the circuit court has jurisdiction in a particular county over offenses against the state liquor laws. T.C.A. § 57-9-105;
4. Eminent domain cases and *in rem* eminent domain cases brought by the county, state, or United States. T.C.A. §§ 29-16-104, 29-17-701;
5. Motions to impose a \$500 forfeiture upon the county trustee for certain breaches of duty, and to impose liability on the trustee and the trustee's surety for breach of duty. T.C.A. § 8-11-106 through 8-11-108;
6. Writs of mandamus to enforce the performance of any duty made incumbent by law upon the county. T.C.A. § 5-1-107;
7. Suits to condemn land for the failure to pay taxes where personal property does not satisfy the distress warrant and where the sheriff has levied upon the real estate. T.C.A. §§ 67-4-110(c), 67-4-215(c);
8. Motions to proceed against any tax collector or other officer of the state who fails to collect taxes, who fails to pay over taxes received by him, or who commits any act of neglect, misprision, misfeasance, or malfeasance in office. T.C.A. §§ 67-1-1602(b), 67-1-1623(a); and
9. Petitions by the circuit court clerk, and the sheriff in counties without a separate criminal court, requesting authority to hire deputies or assistants. T.C.A. § 8-20-101.

Unless otherwise provided, the circuit court has appellate jurisdiction of all actions of any nature instituted before any inferior jurisdiction, whether brought by appeal, certiorari, or in any other manner prescribed by law. T.C.A. § 16-10-112. An appeal may be taken to the circuit court from the judgment of the general sessions court, city judge, recorder or other officer of a municipality. T.C.A. §§ 27-5-101, 27-5-108, 6-21-508. In 1996, the legislature amended Title 4, Chapter 21, to allow the circuit court to share jurisdiction with the chancery court over human rights actions. In 1997 the legislature also amended T.C.A. § 37-1-159 to give the circuit court appellate jurisdiction over unruly child proceedings and dependent and neglect proceedings heard in the juvenile court. In these cases, the circuit court shall try the case de novo.

## Jurisdiction of Chancery Court

Reference Number:  
CTAS-491

The General Assembly determines the chancery court's jurisdiction, and may increase, decrease, or alter its jurisdiction. Tenn. Const., art. VI, § 8. Chancery courts "shall have all the powers, privileges, and jurisdiction properly and rightfully incident to a court of equity." T.C.A. § 16-11-101. This inherent jurisdiction is original and exclusive in cases of an equitable nature, where the debt or demand exceeds \$50, unless otherwise provided. It lacks jurisdiction in cases where the debt or demand is less than \$50, unless otherwise specifically provided. T.C.A. § 16-11-103. Although this inherent jurisdiction is exclusive, if no objection to jurisdiction is made, a circuit court may hear and determine such suits or may transfer the suit to chancery court. T.C.A. § 16-10-111.

Chancery courts exercise inherent jurisdiction, where the debt or demand exceeds \$50, in the following cases:

1. All actions resulting from accidents and mistakes;
2. All actions resulting from frauds, actual and constructive;
3. All actions resulting from trusts, express, constructive and resulting;
4. All actions for the specific performance of contracts;
5. All actions for the reformation, re-execution, rescission and surrender of written instruments;
6. All actions for an accounting, and for surcharging and falsifying accounts;
7. All actions between partners, and to wind up an insolvent partnership;
8. All actions for the administration and marshaling of assets;
9. All actions for subrogation and substitution;
10. All actions for the enforcement of liens created by mortgages, deeds of trust, sales of land on credit, or other equitable consideration;
11. All actions against minors in reference to their estates, not cognizable at law;

12. All actions by wards against guardians, executors, administrators and others, where an accounting or surcharging or falsifying an account is necessary;
13. All actions for an apportionment and contribution;
14. All actions for the marshaling of securities;
15. All actions for relief against forfeitures and penalties;
16. All actions for the redemption of land or other property;
17. All actions to have absolute deeds or bills of sale declared to be mortgages;
18. All actions for the construction and enforcement of wills and trusts;
19. All actions to obtain a set-off against a judgment in favor of a nonresident or insolvent;
20. All actions for the discovery and perpetuation of testimony;
21. All actions to compel claimants to interplead;
22. All actions for equitable attachments and receivers;
23. All actions where a *ne exeat republica* is sought;
24. All actions where an injunction is a substantial part of the relief sought;
25. All actions to remove clouds and quiet titles;
26. All actions for the establishment and execution of charities;
27. All actions for a new trial after a judgment at law;
28. All actions to have void judgments so declared, and to avoid voidable judgments;
29. All actions to execute decrees and to impeach decrees and judgments;
30. All actions to prevent the doing of an illegal or inequitable act to the injury of plaintiff's property rights, or interests, *quia timet*;
31. All actions for the exoneration or protection of sureties; and
32. All other actions where the defendant has done, or is doing, or is threatening to do, some inequitable act to the injury of the plaintiff, and there is no adequate remedy in any other court.

*Gibson's Suits in Chancery* (7th ed. Inman 1988), § 3.

Jurisdiction has been increased to encompass specific actions, including:

1. To aid judgment creditors to subject a debtor's property that cannot be reached by execution to the satisfaction of the judgment. T.C.A. § 16-11-104;
2. To decide all disputes between the state and corporations, their stockholders or creditors. T.C.A. § 16-11-105;
3. To aid creditors of a corporation, without obtaining a judgment at law, to attach the property of a corporation, and subject the same, by sale or otherwise, to the satisfaction of their debts, when the corporate franchises are not used, or have been granted to others. T.C.A. § 29-12-107;
4. To decide all boundary line disputes. T.C.A. § 16-11-106(a);
5. To enforce foreign judgments against the property of a nonresident debtor when the judgment creditor has exhausted his legal remedies. T.C.A. § 26-6-103 *et seq.*;
6. To approve the sale of property of a minor or disabled person. T.C.A. § 34-1-116;
7. To compel the distribution of estates where there are difficulties, complexities, or conflicting claims. T.C.A. § 30-2-710; and
8. To remove the disability of a minor. T.C.A. § 29-31-101.

## Jurisdiction of Criminal Courts

Reference Number:

CTAS-493

The circuit courts have "exclusive original jurisdiction of all crimes and misdemeanors, either at common law or by statute, unless otherwise expressly provided by statute." T.C.A. § 16-10-102. The criminal and circuit courts have "original jurisdiction of all criminal matters not exclusively conferred by law on some other tribunal." T.C.A. § 40-1-108.

In addition to their original jurisdiction over felonies and misdemeanors, criminal courts have exclusive



jurisdiction over special crime-related matters and noncriminal matters, including all matters relating to the seizure and destruction of intoxicating liquors when an offense against a state liquor law has been committed. T.C.A. § 57-9-105. Criminal court judges possess magistrate powers and may issue warrants for the arrest of a person charged with a public offense. T.C.A. §§ 40-5-101, 40-5-102.

Unless otherwise provided, the circuit courts have appellate jurisdiction in all criminal cases and actions originally tried in inferior courts "whether brought by appeal, certiorari, or in any other manner prescribed by law." T.C.A. § 16-10-112. Criminal courts have authority to grant extraordinary relief in appeals from courts of inferior jurisdiction. *Franks v. State*, 565 S.W.2d 36 (Tenn. Crim. App. 1977).

Criminal courts were also granted appellate jurisdiction over delinquency proceedings in the juvenile court by amendments to T.C.A. § 37-1-159 passed in 1997. These appeals are tried de novo by the criminal court.

## General Sessions Court

Reference Number:

CTAS-494

General sessions court judges must be 30 years old, a Tennessee resident for five years, a resident of the county for one year, and licensed to practice law in Tennessee. T.C.A. §§ 16-15-201, 16-15-5005, Tenn. Const., art.VI, § 4. A judge is elected to an eight-year-term. T.C.A. § 16-15-202. A non-attorney may serve as a general sessions judge only in very limited situations. T.C.A. § 16-15-5005. A county legislative body may not establish and fund additional part-time general sessions judges. The code simply allows private acts that would establish part-time general sessions judges in class 1, 2 or 3 counties. Op. Tenn. Att'y Gen. 93-52 (August 9, 1993). The circuit court clerk acts as a general sessions clerk, unless a separate clerk is created by a private act. T.C.A. § 16-15-301.

Salaries are set by general law according to population class, which differs from the population class set forth for county officials. Judges in certain classes may receive additional compensation for additional jurisdiction. However, no general sessions judge shall receive a salary greater than that of a circuit judge. T.C.A. § 16-15-5003. While annual salary adjustments are built into the law, the general salary structure for judges may not be altered during their term. Tenn. Const., art. VI, § 7. A new term began September 1, 2006.

The compensation of the judges of courts of general sessions is determined by the administrative office of the courts (AOC) in accordance with the provisions of T.C.A. § 16-15-5003, as amended by 2006 Public Chapter 957. On September 1, 2006, each judge received an increase in the amount of \$10,000 or 20% of their total annual compensation as of August 31, 2006, whichever is less, and the compensation of judges in each population classification were to be equalized in accordance with their jurisdictional supplements. In Class 1 the equalization is accomplished by raising the compensation of all judges to the salary of the highest paid judge in Class 1 who is paid under this general law. In Classes 2-7, judges with maximum supplements are raised to the compensation of the highest paid judge in that class with maximum supplements, and all other judges are grouped by jurisdiction and paid the same as the highest paid judge with the same jurisdiction in the same population class. On or before July 15, 2006, each general sessions judge was required to certify to the AOC the total amount of compensation received by the judge as of August 31, 2006, the jurisdictions exercised by such judge and the legal basis therefor, and whether the judge is compensated under the general law or a private act. The AOC thereupon reported to each judge the amount of compensation to be paid to such judge beginning September 1, 2006.

A county, by public or private act in effect on September 1, 2006, may compensate its judges in excess of the amount required under T.C.A. § 16-15-5003 (but not above state judges), but a judge is not to receive compensation based both on this general law and a private act or other public act. No judge is to be paid a salary reflecting jurisdictional supplements the judge is not entitled to exercise. No general sessions judge who engages in the private practice of law will receive any increase under this law if such judge is prohibited by law from engaging in private practice. Judges in Knox County are compensated the same as those in Davidson County under a special provision in this law. T.C.A. § 16-15-5003.

## Jurisdiction of General Sessions Court

Reference Number:

CTAS-495

The jurisdictional limit of the general sessions court is \$25,000 in all civil cases in all counties, except in cases of forcible entry and detainer, where the court has unlimited original jurisdiction, including jurisdiction to award an alternative money judgment. Also, the general sessions court judges have jurisdiction to issue restraining orders and enforce penalty provisions for violation of these restraining

orders. T.C.A. § 16-15-501. Attorney's fees, court costs and discretionary costs are not included in the calculation of whether a judgment entered by the general sessions court exceeds these monetary jurisdictional limits. T.C.A. §§ 16-15-501, 29-30-102. The court has jurisdiction to try misdemeanor cases and may issue sentences within the limits provided by law for the particular offense. T.C.A. § 40-1-109. Pursuant to T.C.A. § 40-11-204, general sessions judges also hear petitions for relief on forfeited recognizances.

In many counties, the general sessions court may have, by private or public act, other subject matter jurisdiction, including probate, domestic relations, and Workers' compensation. See T.C.A. §§ 16-15-401, 40-6-214 (arrest warrants), 27-8-105 (certiorari), 17-2-209 (divorce interchange), 17-2-208 (interchange), and private acts relative to jurisdiction in the various counties.

Civil cases, originating in general sessions court and appealed to a higher court, shall not be dismissed for informalities, but shall be tried on the merits of the case. The higher court shall allow all amendments in the form of the action, the parties in the case, or the statement of the cause of action when necessary to reach the merits. The trial, including damages awarded, is de novo. T.C.A. § 16-15-729.

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