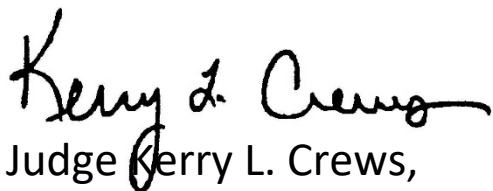


NOTICE

This office is prohibited from giving legal advice to any litigant for any case that has or may be filed on this Court. The attached document was drafted to aid pro-se litigants to determine what case you can file, based on the limitations of this Court. This document also has legal resources on the last page for you to use in seeking legal advice. The information provided in the attached document may not be all cases that can be filed with this Court; however, it lists the most common that we see filed.

We will provide, at your request, a copy of the 500 Section of the Texas Rules of Civil Procedure. This is the section that Texas Justice Courts must follow. We will also provide you with self-help resources developed by the Texas Justice Courts Training Center for use by Self-Represented Litigants.

A handwritten signature in black ink that reads "Kerry L. Crews". The signature is written in a cursive style with a large initial "K".

Judge Kerry L. Crews,
Justice of the Peace, Precinct 2
Hunt County, Texas



HUNT COUNTY JUSTICE OF THE PEACE

HUNT COUNTY CONSTABLE

PRECINCT TWO, PLACE ONE

Physical Address: 1106 Main Street, Commerce, Texas 75428
Mailing Address: Post Office Box 411, Commerce, Texas 75429
903.886.6726 • Fax 903.886.8387 | Constable: 903.886.7937

KERRY L. CREWS
JUDGE

MICHAEL BENSON
CONSTABLE

DEBBIE DRIGGERS
ddriggers@huntcounty.net
CIVIL CLERK

ERICKA CAMPBELL
ecampbell@huntcounty.net
CRIMINAL & CONSTABLE CLERK

This document was developed to explain what remedies are available through the justice court. We are prohibited from giving legal advice, which includes advising you what type of case you should file, or where you should file. We can only give procedural information.

Justice Court is considered the people's court. It is designed for civilians to file cases with our court and represent yourself without having to hire an attorney. You can, however, hire an attorney or seek legal aid to represent you if you wish. The following pages outline the most common remedies you have through justice court. The plaintiff has the burden of proving the case at the time of trial. Please make sure you understand the requirements for filing any of the following cases in Justice Court.

ADMINISTRATIVE HEARINGS

- Dangerous Dog
- Dangerous Wild Animals
- Disposition of Cruelly Treated Animals
- Disposition of Property
- Disposition of Seized Weapons
- Disposition of Gambling Paraphernalia, Prohibited Weapons, Criminal Instruments, and other Contraband.
- Driver's License Suspensions and Revocations
- Environmental and Public Nuisance
- Peace Bonds
- Handgun License (Denial, Suspension, Revocation) Proceedings
- Occupational Driver's License
- Tow Hearing

CRIMINAL

- Justice Courts have concurrent jurisdiction over class C criminal cases with municipal courts in the same precinct inside the city limits.
- Cases can be filed in the Justice Court by citation, by law enforcement, or by a complaint signed by a citizen or law enforcement.
- Defendants have a minimum of 10 working days to appear to answer to the offense they have been charged with.
- If a defendant fails to appear, a courtesy letter must be sent to the last known address on file with the court giving the defendant a second appearance date.
- If 61 days has elapsed after the second appear date, and the defendant still does not appear, a warrant of arrest may be issued.
- In addition to an arrest warrant, private collections, and entry into the Texas Failure to Appear database will occur. Both programs add additional fees the defendant could be responsible for.
- A defendant has the right to plead guilty, not guilty or nolo contendere.
- If a defendant makes a plea of guilty or nolo contendere, a fine will be imposed and arrangement will be made for the defendant to satisfy the judgment.
 - Driver's Safety Course is available to those defendants who qualify.
 - Deferred Disposition can be requested, however, the fine plus a \$50.00 deferred fee is assessed.
 - Payment plans or community service is available to those defendants who are indigent.
 - Complete waiver of fine and court cost is available to those defendants who qualify and are indigent.
 - An affidavit of indigency is required to determine if you qualify.

EMERGENCY PROTECTIVE ORDERS

- Can only be issued at time of magistration.
 - Defendant must be in jail on a family violence offense.
 - An application from the victim, a peace officer, guardian of the victim, the prosecutor, or the court itself.
 - Mandatory if the defendant is accused of using or exhibiting a deadly weapon during a family violence assault; or inflicted serious bodily injury on the victim.

- A magistrate may issue an Emergency Protective Order if the defendant is accused of an offense involving family violence, human trafficking, sexual assault or aggravated sexual assault or stalking.
- For help with Protective Orders when the perpetrator IS NOT in jail, you can contact the Women in Need Office in Greenville, Texas. 903-454-4357 (24/7). See Resources for additional information.

SMALL CLAIMS AND DEBT CLAIMS

- A suit to recover money damages, civil penalties, personal property or other relief allowed by law and within the court's jurisdiction. Texas Rules of Civil Procedure, 500.3(a).
- Justice Court Jurisdiction is \$20,000.00 which does not include statutory interest and court costs, but does include contractual interest and attorney's fees, if any, are included.
- Amount in controversy cannot be manufactured to fit the jurisdiction of the court. Example: If you are owed \$25,000.00 on a claim, but you reduce the amount to \$20,000.00 (the court's jurisdiction), your case must be dismissed.
- Statute of Limitations – This is not a comprehensive list. For more information refer to the Civil Practice and Remedies Code, Chapter 16. (CPRC)
 - Small Claims, Debt Claims, and Contracts – 4 years – CPRC 16.004
 - Torts (injury to estate or property, conversion of property, personal injury, eviction) – 2 Years – CPRC 16.003

EVICCTIONS

- A suit to recover possession of real property (land, a house, an apartment building) from someone who is occupying it. Most commonly is filed by a landlord to remove a tenant from the landlord's property. Rule 500.3(d)
- Evictions are precinct specific, so make sure when you file you do so in the Justice Court in the Precinct where the property is located.
- Once filed, the court date will be set between 10 days and 21 days. The defendant must be served a citation at least 6 days before the trial date.
- Either party has the right to appeal the judgment of the court.
 - 5 days to complete an appeal bond.
 - \$500.00 for the plaintiff
 - Amount set by the judge for defendants.

- If it is a rent related case, the defendant will have 5 additional days from the date the appeal bond is received by the court to pay 1 months' rent into the court registry. If not paid, the plaintiff can get a writ of possession while the case goes up on appeal.
- When a final Judgment is rendered either by the justice court or a higher court, a writ of possession may issue to move the defendant's property to the street.

EMERGENCY DETENTION ORDERS (MENTAL HEALTH WARRANTS)

- Magistrates can issue mental health warrants for individuals that are a danger to themselves or others due to a mental condition. It is recommended that you contact NTBHA (information under resources) and have the individual screened by a Mental Health Professional.
- If the situation is severe and immediate attention is required, you should contact local law enforcement to make sure the individual does not do harm to themselves or others.
- For a magistrate to issue a mental health warrant, you must provide, in person, an affidavit to the court with appropriate, firsthand information, of the issue so that the magistrate has the probable cause to have the individual apprehended against their will.

OTHER INFORMATION\

- **Writ of Possession** – A writ issued by a court after a final judgment of eviction has been rendered that orders the constable to stand by while a landlord or his designee(s) remove property belonging to a previous tenant to the street. *Texas Rules of Civil Procedure, Rule 510.8(d)*
- **Writ of Execution** – A writ issued by the court after a final judgment has been rendered that orders the constable to seize property, that is not exempt, from a judgment debtor to satisfy all or part of a monetary judgment. *Texas Rules of Civil Procedure, Rule 621,629.*
- **Writ of Venditioni Exponas** – If the constable does not have time to sell the property seized from a writ of execution before expiration of the writ, the plaintiff must get this writ authorizing a sale after the execution of a writ of execution.
- **Stay of Execution** – This is used when a defendant has a judgment rendered against him/her, and is unable to pay immediately, but believes he/she will be able to pay within 3 months. The defendant and a surety acknowledge the judgment and they are bond to the plaintiff for the full amount of the judgment, then may ask the court for a stay of execution for 3 months. *Texas Rules of Civil Procedure, Rule 635.*
- **Special Writs** – Used for personal property. The court may award a Special Writ for the seizure and delivery of such property to the plaintiff. *Texas Rules of Civil Procedure, Rules 505.2, 632.*
- **Writ of Sequestration** – An order directing the sheriff or constable to seize and hold personal property that is subject of a lawsuit before judgment. The purpose of this writ is to preserve and protect the value of the property until the suit is tried. *Civil Practice and Remedies Code § 62.021; Texas Rules of Civil Procedure, Rule 505.2.*
- **Writ of Attachment** – An attachment to seize and hold non-exempt property before judgment in a suit on a debt to ensure that the property will be available to satisfy the judgment once the final judgment has been rendered. *Civil Practice and Remedies Code § 61.001.*

- **Abstract of Judgment** – This creates a lien on non-exempt property of the defendant in the county where the abstract is filed. A judgment alone does not create a lien. An abstract of judgment can be filed in any county where the judgment debtor owns non-exempt property. An abstract will prevent the defendant from selling property with a free and clear title unless and until the lien is released. So, the advantage to the plaintiff is that if the defendant wants to sell their property, they must first pay off the judgment to get the lien released. *Tx Prop. Code § 52.002*
- **Writ of Garnishment** – A process for seizing assets, both money and property, held by a 3rd party (the garnishee) but owed or belonging to the debtor. Most common is money held by a bank, or other financial institution. *Civil Practice and Remedies Code § 63.002.*
- **Turnover Orders** – An order from a justice court directed to a judgment debtor ordering them to turnover non-exempt property to a sheriff or constable for satisfaction of a judgment that has been rendered against them. *Civil Practice and Remedies Code § 31.002.*
- **Receiverships** – This is a person appointed by the court who has the authority expressed in the court’s order appointing a receiver. Usually, the receiver will have the authority to take possession of a judgment debtor’s nonexempt property, sell it, and pay the proceeds to the judgment creditor to the extent required to satisfy the judgment. *Civil Practice and Remedy Code § 31.002(b)(3).*
- **Writ of Retrieval** – If you are locked out of your residence or former residence by another occupant, you may be able to ask a judge for this writ authorizing you to go back in, accompanied by a peace officer, to retrieve certain essential items that belong to you (such as clothes or medicine). *Texas Property Code § 24A.002(a).*
- **Writ of Re-entry** – This writ is an order requiring a landlord to let you back into the place you are renting if the landlord improperly locks you out. *Texas Property Code § 24A.002(a).*
- **Writ of Restoration** – This writ is an order that requires a landlord who has improperly shut off the utilities to your residence to turn them back on. *Texas Property Code § 92.009; 93.003(a).*
- **Repair and Remedy Order** – Landlords are required by law to “repair or remedy” (meaning to fix) certain conditions that materially affect the physical health or safety of an ordinary tenant (for example mold, roof leaks, infestation of rodents). If you are renting a residence and the landlord fails to do this, you may be able to file a repair and remedy case against the landlord. *Texas Rules of Civil Procedure, Rule 509.1.*
- **Deed Restriction Cases** - Section 27.034(a) of the Government Code gives a justice court “jurisdiction of suits relating to enforcement of a deed restriction of a residential subdivision that does not concern a structural change to a dwelling.”

RESOURCES FOR THE PUBLIC – THIS INFORMATION IS NOT LEGAL ADVICE

- Texas Justice Court Training Center Self Represented Litigant Information Packets - <https://www.tjctc.org/SRL.html>

For help locating an attorney, or to see if you qualify for low-cost or no-cost legal assistance, please contact:

- 2020 Referral Directory from the Legal Access Division of the State Bar of Texas – 800-204-2222, Ext 1855 - <https://www.texasbar.com/Content/NavigationMenu/LawyersGivingBack/LegalAccessDivision/ReferralDirectory.pdf>
- The State Bar Lawyer Referral & Information Service – 800-252-9690 - <https://www.texasbar.com/Content/NavigationMenu/ForThePublic/DoYouNeedALawyer/LawyerReferralServiceLRIS/default.htm>
- Texas Rio Grande Legal Aid – 888-988-9996 - <https://www.trla.org/>
- Lone Star Legal Aid – 713-652-0007 - <https://lonestarlegal.blog/>
- Legal Aid of Northwest Texas – 888-529-5277 - <http://internet.lanwt.org/en-us/gethelp/Pages/Centralized-Telephone-Intake.aspx>
- Texas Courts Legal Aid - <https://www.txcourts.gov/programs-services/legal-aid/>

Additionally, legal information can be found at:

- <http://www.texascourthelp.gov/> – This website provides information and guidance on navigating the court system, including information on finding an attorney if needed, forms, and other helpful links.
- <http://www.sll.texas.gov/> - This is the State Law Library, where you can do legal research and review Frequently Asked Questions, as well as access forms and other resources. Information can be found under the Self-Help tab.
- <https://www.txcourts.gov/rules-forms/rules-standards/> - Click “Rules of Civil Procedure” at this link to get the rules that apply to civil cases, including evictions. Rules 500 – 510 are the rules that specifically apply to justice courts.
- Forcible Entry and Detainer Statute – Texas Property Code, Chapter 24 - <https://statutes.capitol.texas.gov/Docs/PR/htm/PR.24.htm>
- Landlord and Tenant Statute – Texas Property Code, Chapter 92 - <https://statutes.capitol.texas.gov/Docs/PR/htm/PR.92.htm>
- Texas Rules of Civil Procedure - <https://www.txcourts.gov/media/1446498/trcp-all-updated-with-amendments-effective-may-1-2020.pdf>
- Civil Practice and Remedies Code - <https://statutes.capitol.texas.gov/Docs/SDocs/CIVILPRACTICEANDREMEDIESCODE.pdf>
- All Texas Statutes - <https://statutes.capitol.texas.gov/>
- Women in Need – Greenville, Texas – 903-454-4357 - info@wintexas.org - <https://www.domesticshelters.org/help/tx/greenville/75403/women-in-need-inc>
- National Domestic Violence Hotline – 800-799-7233 – SMS – Texas Start to 88788
- Mental Health Assistance – North Texas Behavioral Health Authority (NTBHA) – Crisis Line – 866-260-8000 - <https://ntbha.org/>