

TJCTC Programs are an educational endeavor of the Justices of the Peace and Constable's Association of Texas, Inc. and funded by the Texas Court of Criminal Appeals.

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Agend	a	
02. What is Civil Process??	04. Your Role	

How long have you worked in a constable's office?

- 1. 1 year or less
- 2. 1-5 years
- 3. 6-10 years
- 4. 10+ years



Must Do	Can Do	

What is Civil Process?





Parties in a Civil Case

Plaintiff

Person/entity suing

Defendant

Person/entity being sued

Judgment Creditor

Person/entity who the judgment is owed to

Judgment Debtor

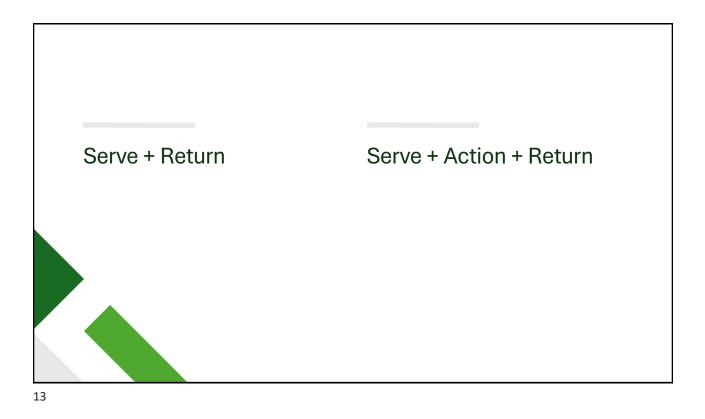
Person/entity that owes the judgment

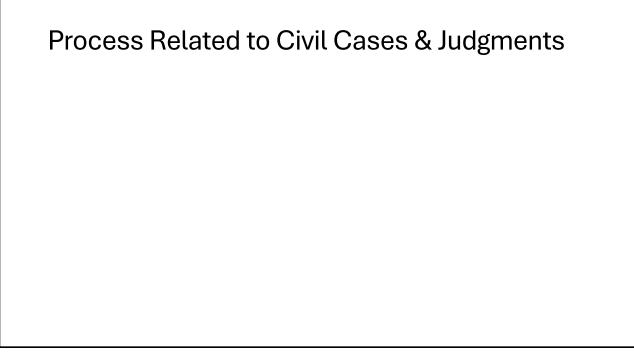
Civil Process is the broad term for the delivery of court papers to parties in a civil court case.

11

What are Types of Civil Process?

Subpoenas Citations & Notices Did we Profective Onything?



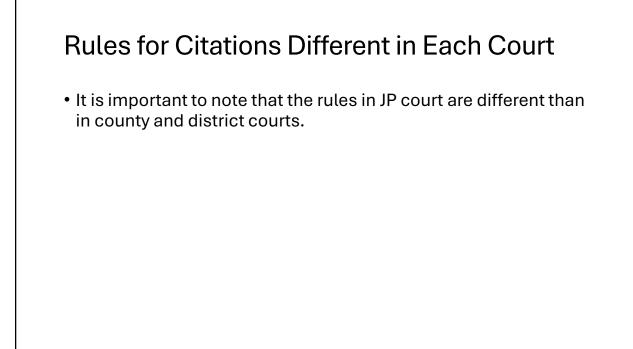


What is a Citation?

In general, citations are writs issued by a court commanding a person to appear at a certain time and place to do something demanded in the writ or show cause for why they have not done so.

In Texas, this term is used for the official notice to a defendant that a civil case has been filed against them. It directs defendants to file an answer with the court.

**Remember, class c misdemeanor tickets are also called citations, so when in doubt, clarify - civil or criminal?!



Service by Social Media

- Yes, this can happen!
- *Civil Practice and Remedies Code 17.033* substituted service through social media presence
- Rule 106, Rule 500.3(e)
- From the Rule comments: "In determining whether to permit electronic service of process, a court should consider whether the technology actually belongs to the defendant and whether the defendant regularly uses or recently used the technology."

17

What is a Subpoena?

A document summoning a witness to come to court.

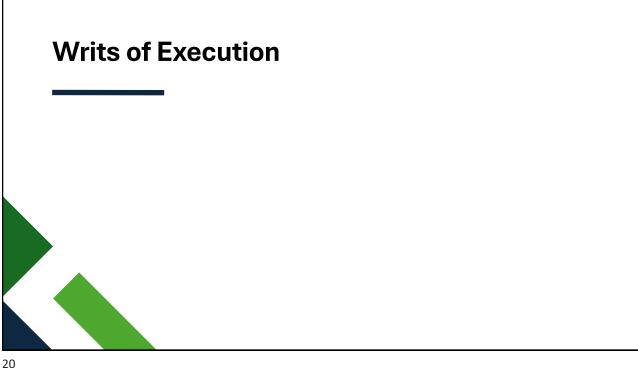
A subpoena duces tecum is a subpoena that requires a witness to bring documents, records, or some other item with them to court.

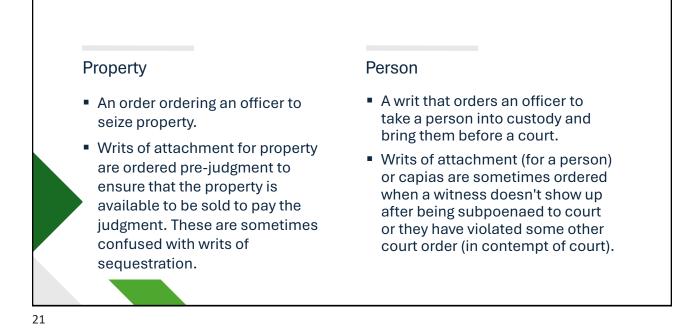
What is a Writ?

A writ is a court order, usually telling an officer (constable, sheriff, process server, etc.), to do a specific thing related to a lawsuit. (Action)

Common writs: writ of execution, writ of attachment, writ of sequestration, writ of habeas corpus, writ of reentry, writ of possession, writ of restoration, writ of retrieval, and writ of garnishment.

Common orders similar to writs: temporary restraining order, injunction, order of sale, order appointing receiver, turnover order, and distress warrant.





Writs of Sequestration

A pre-judgment court order to an officer to seize specific personal property while a case is pending to preserve and protect the property until the case is decided.

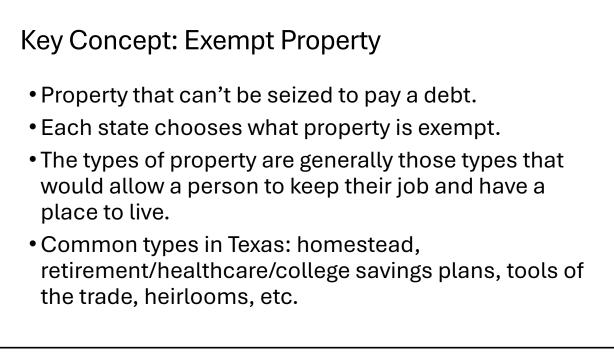
This will usually be requested if a plaintiff is afraid that the defendant will sell, damage, or hide the property that the suit is about.

Writs of Garnishment

A case where a creditor asks the court to order a third party who is indebted to or holds property of the debtor to turn over that property to the creditor.

Garnishment Module

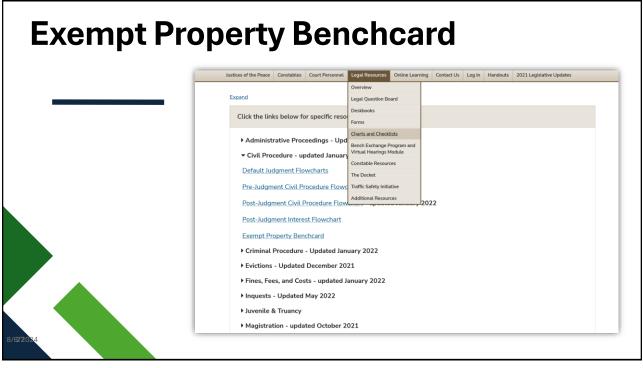
• For detailed information on Garnishment procedures, see the Garnishment Module under *Online Education* & *Self-Paced Modules* on the TJCTC website.



25

Exempt Property Module

• For detailed information on exempt property and hearing procedures, see the Exempt Property Module under *Online Education* & *Self-Paced Modules* on the TJCTC website.





Landlord/Tenant Writs (Action)		
Writs of Reentry	Writs of Retrieval	
	·	
Distress Warrants		

29

Writs of Possession

- Many things under Texas law are called "writs of possession"
- In eviction cases this refers to an order requiring an officer to assist a landlord who won an eviction in taking possession of the residence that was in dispute.
- Most other types of "writs of possession" will be issued by a district court and will be handled as the rule/statute that allows them to be issued describes.

Writs of Reentry and Restoration

Reentry

- An ex parte order requiring a landlord to let a tenant back into their rental unit after the landlord has locked the tenant out unlawfully.
- Procedures for writs of reentry can be found in Property Code Chapters 92 (residential) and 93 (commercial).

Restoration

 An ex parte writ ordering a landlord who unlawfully shut off utility service to a residential tenant to restore the service. This is not available in commercial tenancies.

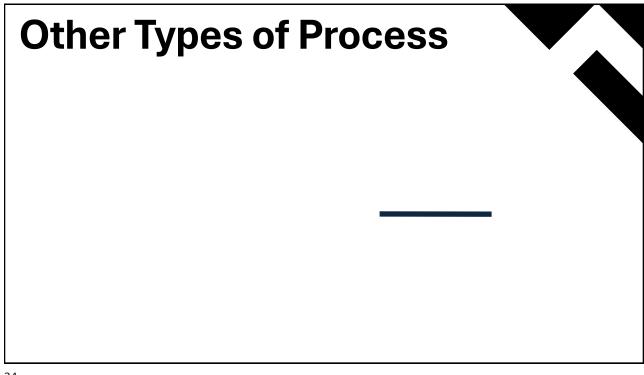
Writs of Retrieval

- An order authorizing a peace officer to assist a person to enter their residence or former residence to retrieve specific items of personal property (listed in the statute) because the current occupant is denying them entry.
- Items (belonging to their applicant/dependent) that can be retrieved: medical records, medicine and medical supplies, clothing, child-care items, legal or financial documents (and copies of electronic records of these documents), checks or bank or credit cards in the name of the applicant, employment records, personal ID documents, assistance or service animals, wireless communication devices, tools/equipment/books/apparatus used in their trade or profession.

32

Distress Warrants

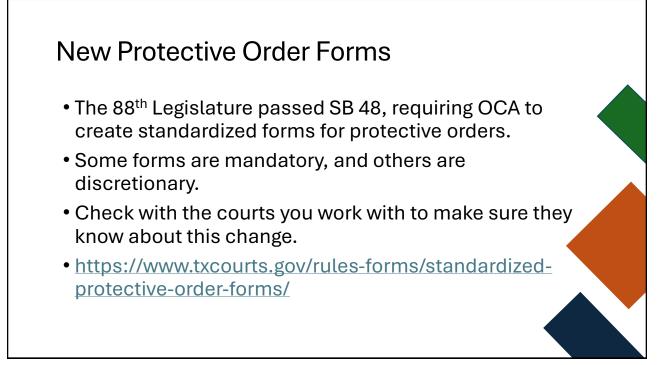
An order to a sheriff or constable to seize a **commercial or agricultural** tenant's personal property, because the tenant owes back rent.

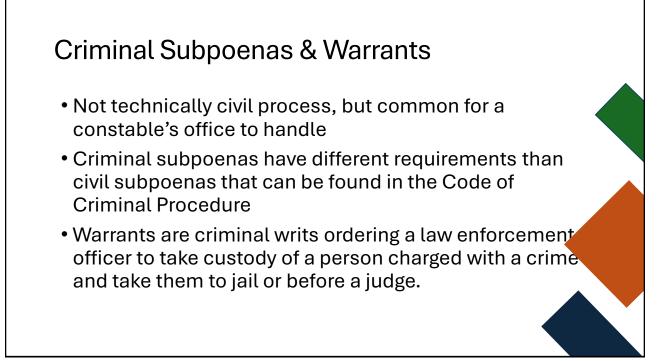


Protective Orders

An order requiring the person it is directed at to do or refrain from doing actions. This is sometimes called a "final protective order." Before issuing this order, a court will listen to evidence and make an affirmative finding that family violence occurred or make other findings related to sexual assault, stalking, or human trafficking.

These orders generally remain in place for 2 years. *There are additional time periods for some specific types of protective orders*. Violations of protective orders are criminally enforceable under Penal Code § 25.07.





Resources & Information

Where is More Information on Civil Process??

TJCTC Deskbooks

- Civil Process Field Guide
- Practical Guide to Writs of Execution
- Civil Deskbook
- Evictions Deskbook

https://www.tjctc.org/tjctcresources/Deskbooks.html

TJCTC Forms

- Civil Procedure Forms
- Eviction and Other Landlord-Tenant Forms

https://www.tjctc.org/tjctcresources/forms.html

39

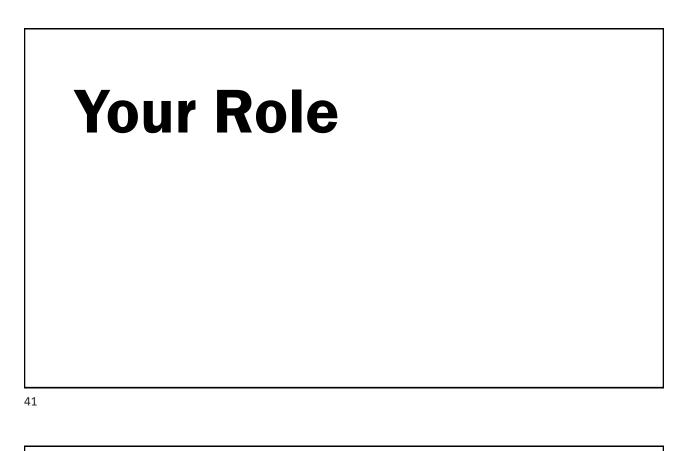
Where is Even More Information on Civil Process??

TJCTC Self-Paced Modules Other Resources

- New to the Constable's Office Series
- Garnishment
- Legal Research & Resources

https://www.tjctc.org/onlinel earning/selfpacedmodules. html

- Texas State Law Library https://www.sll.texas.gov/legal-help/
- Texas Constitution & Statutes https://statutes.capitol.texas.gov/
- Texas Rules of Civil Procedure <u>https://txcourts.gov/rules-forms/rules-</u> standards/
- Attorney General Opinions - https://www.texasattorneygeneral.gov/attorney-general-opinions





Remember, the Duties of the Constable Filter Down to the Rest of the Office

Duty of Successor in Office

Duty to Deliver Money Collected

Duty to Execute Process

Duty Related to Seized Personal Property

Duty to Endorse Writ Properly

Duty to Return Writ Properly

Duty to Levy and Sell

Duty to Hold Proper Sale



- Researching people before serving them can be helpful.
- DPS Secure Site: https://securesite.dps.texas.gov/DpsWebsite/index.aspx
- Your county system (follow any policies for use).
- TLETS: It's possible that this can't be used for civil process (depending on interpretation of "criminal justice purpose" and exact circumstances). Follow the use policy and consult with your county attorney/DPS rep about what is acceptable.