

# Complex Service Issues

Constable Michael Truitt

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## **Alternate Service by Electronic Means**

**The Defendant won't accept service, Let's Get Creative!**

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# Service of Civil Papers

- Substitute Service
  - TRCP 106b
    - Over 16 YOA
    - Any other manner the court deems effective to give the defendant notice of the suit
    - Electronically
      - Social Media

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# Social Media

- Substituted Service Through Social Media Presence (CPRC 17.033)
  - 86<sup>th</sup> Legislature changed CPRC 17.033 to include social media
  - 2020 Supreme Court changed Rule 106 to include Social Media
    - *“in any other manner, including electronically by social media, email, or other technology, that the statement or other evidence shows will be reasonably effective to give the defendant notice of the suite.”*
- The change in CPRC 17.033 does not change Rule 501.2 (Justice Court)

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## Service by Social Media: Procedure

- The Office / Agency will create an account on Facebook (or whichever platform is specified) to be able to access.
- The officer will then scan the document to be attached.
- Send the document to the respondent to the account provided through the “message” tab on the respondent’s page.
- The officer may request confirmation, although it is not required to complete the return unless directed by the court.
- The officer will use the time/date information from the electronic platform as the date of service for the officer’s return. If requested, will also attach a screenshot of this information and response, if any, to the return.

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## Other Social Media

Additional Social Media Platforms that have direct messenger applications:

- Instagram
- Twitter / X
- LinkedIn



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# Facebook



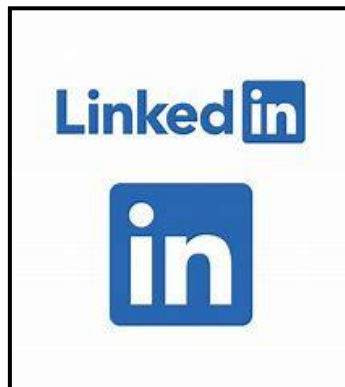
7

# Instagram



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# LinkedIn



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## Service of Civil Papers

- Substitute Service
  - TRCP 106b
    - Over 16 YOA
    - Any other manner the court deems effective to give the defendant notice of the suit
  - Electronically
    - Social Media
    - **Email or Text**

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## **Service by Text Message / “WhatsApp” Procedure**

- The Court/plaintiff will provide a specific account/phone number for the subject being served.
- Once the correct account/phone number is received and confirmed, scan a copy of the process to be served and attach it to a message for the respondent.
- The officer may request confirmation, although it is not required to complete the return unless directed by the court.
- The time/date information from the electronic platform will be used as the date of service for the officer’s return. If requested attach a screen shot of this information and response, if any, to the return.

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## **Service by Email Procedure**

- The Court/plaintiff will provide a specific email address for the subject being served.
- Send a scanned copy of the process to be served to provided email address.
- Request response through email provider “message received” and “message read”
- The date/time information from the “outbox” in your email program is used as the date/time of service on the officer’s return. If requested, attach a screen shot of this information and response to the return.

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## Service of Civil Papers

- Substitute Service
  - TRCP 106b
    - Over 16 YOA
    - Any other manner the court deems effective to give the defendant notice of the suit
  - Electronically
    - Social Media
    - Email or Text
    - **Other Technology**

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## Service by Text, Email & Social Media

### **Note:**

- Adequate Service of process will be determined by the Court.
- In many cases the officer may not be able to confirm receipt of these deliveries since there may not be any feedback from the different platforms.
- An actual response from the respondent would be a positive confirmation that **someone** at that end received the notice.

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# **Writ of Possession for Personal Property**

# **Writ of Execution for Specific Property**

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## **Seizing Personal Property 1**

- Mobile Home Scenario
  - Defendant owns land (5 acres) outright
  - Mobile home is financed
  - Fence around property
  - Driveway has a gate at road
- You receive a Writ of Possession or Writ of Execution out of District Court to repossess the mobile Home.

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## **Seizing Personal Property 2**

- What are the rights of Law Enforcement to enter the defendants property/land by climbing locked or secured gates to post 24-hour notice?
- Can Law Enforcement to enter the defendants land by cutting locks on the gates to access property?
- What can Law Enforcement do to gain entry if the defendant fails to comply?
- If the mobile home is occupied, does it require an eviction Writ of Possession?

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## **Seizing Personal Property 3**

- Vehicle Scenario
  - Home is owned by the Defendant
  - Vehicle is in the garage because it is only used on weekends for wedding business
    - Confirmed by neighbors
  - Defendant talked with LE on initial contact and made it clear that they will not turn over vehicle.
- You receive a Writ of Possession from District Court on a Rolls-Royce

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## **Seizing Personal Property 4**

- What are Law Enforcements rights to enter the house in order to access the garage and seize the Rolls, if the garage door is shut?
- if the garage door is open, what is Law Enforcements rights to enter the garage in order to seize the vehicle?
- If the vehicle is parked in the driveway of the residence, what is Law Enforcements rights to seize the vehicle?

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## **Expiration of a Writ of Possession / Eviction**

30 Days? 60 Days? 90 days? 10 years?

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## **Expiration of Writs of Possession**

- Justice Courts
  - TRCP 510.8d
    - Issued
      - Writ to be issued no sooner than the 6<sup>th</sup> day after judgement
      - No later than 60 days after judgement
      - Can be extended to 90 with good cause
    - Execution
      - Writ cannot be executed after 90<sup>th</sup> day after signature

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## **Expiration of Writs of Possession Cont'd**

What happens when the Writ of Possession comes out of County Court? How long is the Writ good For?

- County Court
  - County Court judgements good for 10 years
  - TRCP 510 applied to County Court
    - In re Rent Space Mgmt. LLC (2022 WL 2437599)
    - Brigandi v. American Mortgage Investment Partners Fund I Trust (2017 WL 3276032)
  - Talk to Judge / Get written instructions

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# **Service Fees for Temporary Protective Orders & Protective Orders**

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## **TPO & PO Service Fees**

Texas does not charge fees for TPO or PO Service, Right?

- TFC 81.002 (Applicant)
  - Applicant not assessed any fees associated with Family Violence Case
- TFC 81.003 (Respondent)
  - Respondent shall be assessed all fees in connection to the Protective Order.
  - Exception is a finding of indigence
- How to handle

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# Weapons and Protect Orders

“Who do I turn my gun into and how do I get it back?”

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## Weapons and PO's 1

- Federal Law
  - 18 USC 922(g)(8)
    - The restraining order must have been issued after a hearing where the accused had an opportunity to participate.
    - The order must specifically prohibit the individual from harassing, stalking, or threatening an intimate partner or child, or include a finding that the individual represents a credible threat to their physical safety.
  - United States v. Rahimi (SCOTUS 2024)
    - If the defendant poses a credible threat to another safety,
    - The defendant can be temporarily disarmed without violation of the 2<sup>nd</sup> Amendment

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## **Weapons and PO's 2**

- Texas Law
  - TFC 85.026
    - Unlawful for any person who is subject to a protective order to possess a firearm or ammunition.
    - Exception for FULL-TIME PAID Law Enforcement
  - TPC 46.04
    - Convicted of assault family violence (Misdemeanor A) 5-year ban for possessing firearm after release from confinement, community supervision, or probation.

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## **Weapons and PO's 3**

What is done with the weapons after service of the Protective Order or Temporary Protective Order?

- Neither Federal or State laws address any protocols for relinquishing weapons once a protective order is in place.

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## **Weapons and PO's 4**

- In Texas, less than 10 of the 254 counties have any type of standard protocol for subjects to handover their weapons to law enforcement.
- Why?
  - Lack of guidelines
  - Lack of manpower
  - Lack of funds

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## **Weapons and PO's 5**

- How does the person issued a protective order abide by the order?
- How do we, as law enforcement, enforce the gun and ammunition ban once the protective order has been served?

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# **Emergency Detention Orders**

What does Law Enforcement have to do after the warrant is issued?

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## **Emergency Detention 1**

What is required of Law Enforcement after the Emergency Detention Warrant is issued?

Can a Magistrate require a specific Law Enforcement Agency to execute the warrant?

Can a Peace Officer or Agency refuse to transport an individual?

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## **Emergency Detention 2**

- THSC 573.012
  - Order from Judge to on-duty peace officer to apprehend the person
  - Peace officer is to transport the person to
    - Nearest appropriate inpatient mental health facility
    - A mental health facility deemed suitable by the local mental health authority
  - A peace officer who apprehends and transports the person
    - Is not required to stay at the facility during screening, treatment, or insurance verification
    - May leave the facility after the person is taken into custody by the facilities staff and all appropriate paperwork is turned over to the facility

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## **Emergency Detention 3**

- Attorney General Opinion KP-0206
  - Any peace officer or agency can be designated to apprehend and transport regardless of where the individual is found, ever outside of the agencies jurisdiction.
  - Any peace officer or agency who responds and apprehends a person is also responsible for transporting the subject to the nearest mental health facility for evaluation.
  - A peace officer or agency may not refuse to transport a person. THSC 573.012 says a person “shall be transported” to the nearest mental health facility. This takes away any discretion of the officer or agency.

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## **Emergency Detention 4**

For a more in-depth look at this topic  
look at the class handouts for

**Emergency Detention Warrants**  
**TJCTC**

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## **Billing for Attorney General Papers**

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# Billing for AG Papers 1

- TFC 231.202
  - Specifies what costs and fees the OAG-CSD is authorized to pay
    - Fee authorized under LGC 118.131 for service of process
    - Fee authorized under the TFC 157.103(b) for serving a capias
- TFC 231.205
  - Limits the liability of the OAG-CSD for filing fees and costs.
    - Pay is limited to the federal share of reimbursement
    - Reimbursement is limited to 66% of fees and costs.

# Billing for AG Papers 2

- Service Date
  - Enter the month, day, and year that the service was returned.
- OAG Case ID
  - Enter the Attorney General case number, which can be found on the legal document.
- Cause Number
  - Enter the court cause number.
- NCP Name
  - Enter the name of the non-custodial parent or alleged father.

**OAG/CSD - SERVICE OF PROCESS REIMBURSEMENT DETAIL SHEET**

County and Office: \_\_\_\_\_ Prepared by: \_\_\_\_\_

Billing Month/Year: \_\_\_\_\_ Telephone #: \_\_\_\_\_ Page \_\_\_\_ of \_\_\_\_

SERVICE DATE	OAG CASE ID	CAUSE NUMBER	NCP NAME	CP NAME	# of Returned Services	Returned Service Fee	Excluded Award Fee	Gross Amount Total			
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<b>Category Amount Page Total</b>								NA	\$ -	\$ -	\$ -
<b>Category Count Page Total</b>								NA			

Rev. 01/2012

Credit (if any) \_\_\_\_\_  
Invoice Grand Total \_\_\_\_\_





# Billing for AG Papers 7

## Instructions for completing the Invoice Sheet

- Texas Identification Number (TIN) or Federal ID Number (FEIN)
  - Enter the TIN or FEIN for the entity receiving payment.
- Payee Name/Address
  - Enter the County and the Official Title of the Office submitting the billing, not a personal name. Also include the mailing address where payment is to be received.
- Service Month/Year
  - Enter the date that the action was filed, or that service was returned.

### INVOICE

Texas Identification Number (TIN) or Federal Paper Identification Number (FEIN): 756009205		Submit Invoice to: COUNTY BILLING @AG.TEXAS.GOV Attorney General of Texas Child Support Division MC058-4 P.O. Box 12017 Austin, Texas 78711-2017	
Payee Name/Address: Denton County Constable, Pct. 2 5533 FM 423, Suite 601 Frisco, TX 75036			
Service Month/Year	Description of Services Performed	Gross Amount	Net Amount
June 2024	Services provided under the Texas Family Code and Title IV-D. Select One <input type="checkbox"/> Travel Reimbursement <input checked="" type="checkbox"/> Court Costs and Filing Fees  Enter credit (if any)	3075.00 66%	963.50
		66%	
		<b>INVOICE TOTAL</b>	<b>\$643.50</b>
<small>                 I hereby certify: (1) that the services for which payment is requested herein were fully and satisfactorily performed in accordance with the Texas Family Code, (2) that the fees and costs comply with Chapters 110 and 231.202 of the Texas Family Code and by Sections 51.317, 51.318(b)(2), and 51.319(d) of the Texas Government Code, and (3) that this invoice is true and unpaid.             </small>			
Certified on behalf of the county by: Signature: _____ Date: 7/1/2024 Title: Administrative Manager			
Contact Name: Emma Reed		Phone: 872-434-7239	
CHILD SUPPORT USE ONLY			
Approved by: _____		Date: _____	
Approved by: _____		Date: _____	

# Billing for AG Papers 8

## Instructions for completing the Invoice Sheet

- Gross Amount
  - Enter the Total Gross Amount for all pages (on last page of the Reimbursement Detail Sheet)
- Net Amount
  - "Automatic Calculation: Multiplies the Total Gross Amount by 100% for Travel Reimbursements and 66% (FFP) for Court Costs and Service of Process Fees.
    - Note: Federal Financial Participation (FFP) is the allowable percent of reimbursement."

### INVOICE

Texas Identification Number (TIN) or Federal Paper Identification Number (FEIN): 756009205		Submit Invoice to: COUNTY BILLING @AG.TEXAS.GOV Attorney General of Texas Child Support Division MC058-4 P.O. Box 12017 Austin, Texas 78711-2017	
Payee Name/Address: Denton County Constable, Pct. 2 5533 FM 423, Suite 601 Frisco, TX 75036			
Service Month/Year	Description of Services Performed	Gross Amount	Net Amount
June 2024	Services provided under the Texas Family Code and Title IV-D. Select One <input type="checkbox"/> Travel Reimbursement <input checked="" type="checkbox"/> Court Costs and Filing Fees  Enter credit (if any)	3075.00 66%	963.50
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		<b>INVOICE TOTAL</b>	<b>\$643.50</b>
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Certified on behalf of the county by: Signature: _____ Date: 7/1/2024 Title: Administrative Manager			
Contact Name: Emma Reed		Phone: 872-434-7239	
CHILD SUPPORT USE ONLY			
Approved by: _____		Date: _____	
Approved by: _____		Date: _____	

# Billing for AG Papers 9

## Instructions for completing the Invoice Sheet

- Credit
  - Enter credit amount (if any).
- Invoice Total
  - Automatic Calculation: Total amount requested after all adjustments.
- Certified on behalf of the county
  - "Obtain the signature and title of the District Clerk, Sheriff, Constable, or approved designee.
  - Note: The required signature can be either a wet or electronic signature."
  -

### INVOICE

Texas Identification Number (TRN) or Federal Paper Identification Number (FPI#): 7560009205		Submit Invoice to:	
Payee Name/Address: Denton County Constable, Pct. 2 5533 FM 423, Suite 601 Frisco, TX 75036		COUNTY BILLING @ OAG, TEXAS GOV Attorney General of Texas Child Support Division MC058-4 P.O. Box 12017 Austin, Texas 78711-2017	
Service Month/Year	Description of Services Performed	Gross Amount	Net Amount
June 2024	Services provided under the Texas Family Code and Title IV-D. Select One <input type="checkbox"/> Travel Reimbursement <input checked="" type="checkbox"/> Court Costs and Filing Fees	\$075.00	60%
	Enter credit (if any)		60%
		<b>INVOICE TOTAL</b>	<b>\$643.50</b>
<small>                 I hereby certify: (1) that the services for which payment is requested herein were fully and satisfactorily performed in accordance with the Texas Family Code, (2) that the fees and costs comply with Chapters 110 and 231.202 of the Texas Family Code and by Sections 51.317, 51.318(b)(2), and 51.319(d) of the Texas Government Code, and (3) that this invoice is true and unpaid.             </small>			
Certified on behalf of the county by: Signature: _____ Date: 7/1/2024 Title: Administrative Manager			
Contact Name: Emma Reed		Phone: 872-434-7239	
CHILD SUPPORT USE ONLY			
Approved by: _____		Date: _____	
Approved by: _____		Date: _____	

# Billing for AG Papers 10

## Instructions for completing the Invoice Sheet

- Contact Name
  - Enter the name and phone number of the person completing the report and invoice.
- Child Support use only
  - Leave this blank for OAG approval and processing.

### INVOICE

Texas Identification Number (TRN) or Federal Paper Identification Number (FPI#): 7560009205		Submit Invoice to:	
Payee Name/Address: Denton County Constable, Pct. 2 5533 FM 423, Suite 601 Frisco, TX 75036		COUNTY BILLING @ OAG, TEXAS GOV Attorney General of Texas Child Support Division MC058-4 P.O. Box 12017 Austin, Texas 78711-2017	
Service Month/Year	Description of Services Performed	Gross Amount	Net Amount
June 2024	Services provided under the Texas Family Code and Title IV-D. Select One <input type="checkbox"/> Travel Reimbursement <input checked="" type="checkbox"/> Court Costs and Filing Fees	\$075.00	60%
	Enter credit (if any)		60%
		<b>INVOICE TOTAL</b>	<b>\$643.50</b>
<small>                 I hereby certify: (1) that the services for which payment is requested herein were fully and satisfactorily performed in accordance with the Texas Family Code, (2) that the fees and costs comply with Chapters 110 and 231.202 of the Texas Family Code and by Sections 51.317, 51.318(b)(2), and 51.319(d) of the Texas Government Code, and (3) that this invoice is true and unpaid.             </small>			
Certified on behalf of the county by: Signature: _____ Date: 7/1/2024 Title: Administrative Manager			
Contact Name: Emma Reed		Phone: 872-434-7239	
CHILD SUPPORT USE ONLY			
Approved by: _____		Date: _____	
Approved by: _____		Date: _____	

## Billing for AG Papers 11

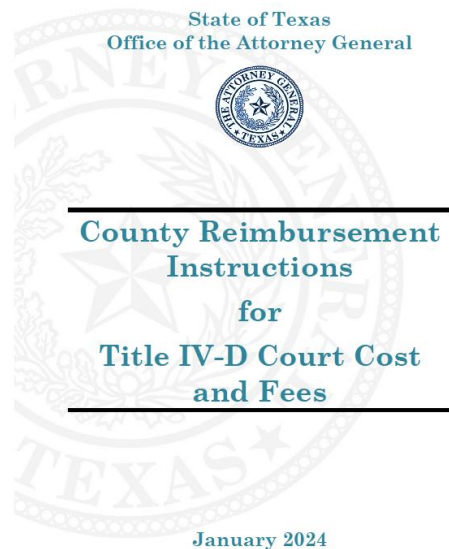
- Upon receipt of a properly prepared invoice and reimbursement detail sheet, the OAG will review the documents for accuracy. You will be contacted if the review potentially results in an adjustment of your submitted invoice.
- Invoices can be submitted in three ways:
  - Email: County.Billing@oag.texas.gov
  - Fax: (512) 460-6613
  - US Mail: Office of the Attorney General  
Child Support Division, MC 058-4  
PO Box 12017  
Austin, Texas 78711-2017  
512-460-6961

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## Billing for AG Papers 12

**Each office should have a  
copy of this manual!**



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# Service of Process During Legislative Session

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## Serving Legislators and Staff

- TCPRC 30.0035
  - PERSONAL SERVICE OF PROCESS DURING LEGISLATIVE PROCEEDING PROHIBITED.
    - A person may not serve citation or other civil process in person on a member, officer, or employee of the senate or house of representatives during any legislative proceeding.
    - A court shall quash any service made in violation of this section.
    - The supreme court shall revoke the certification of a process server who violates this section. This section is not subject to Section 22.004(c), Government Code.

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