



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 24, 1997

The Honorable Steven C. Hilbig
Bexar County Criminal District Attorney
300 Dolorosa, Suite 5072
San Antonio, Texas 78205-3030

Letter Opinion No. 97-044

Re: The legality of the district clerk collecting the initial operations fee on behalf of the domestic relations office (ID# 39256)

Dear Mr. Hilbig:

You ask whether the district clerk may collect the initial operations fee in certain family law cases on behalf of the domestic relations office. Provided that the commissioners court and the administering entity perform necessary tasks, we believe that the district clerk may collect the fee. You have not indicated whether the commissioners court has taken any action in regard to the domestic relations office under chapter 203 of the Family Code.

As noted in your letter, in 1995 the legislature revised the statutes governing domestic relations offices in general and repealed a special statute that related to Bexar County. *See* Act of May 19, 1995, 74th Leg., R.S., ch. 475, 1995 Tex. Gen. Laws, 3191, 3191. Chapter 203 of the Family Code now provides that, in all counties, the commissioners court may establish a domestic relations office.¹ The domestic relations office shall be administered as provided by the commissioners court.² If the commissioners court does not otherwise provide, the juvenile board will administer the office.³

The administering entity has several important duties: it shall appoint a director,⁴ and it may authorize the domestic relations office to assess and collect the initial operations fee.⁵ The director, in turn, is required to "attempt to collect all fees in an efficient manner."⁶ Section 203.005(a)(1) authorizes the administering entity to "authorize a domestic relations office to assess and collect . . . an initial operations fee not to exceed \$15 to be paid to the domestic relations office on the filing of a suit." We think that, if and when the administering entity authorizes the assessment

¹Fam. Code § 203.002.

²*Id.* § 203.003(a)(1).

³*Id.* § 203.003(a)(2).

⁴*Id.* § 203.003(b).

⁵*Id.* § 203.005(a)(1).

⁶*Id.* § 203.005(c).

and collection of the fee, the collection and payment can be accomplished by means of an interlocal contract, in a manner very similar to the way the Bexar County Child Support Services Department collected the fee prior to the repeal of the special statute.

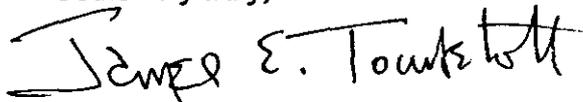
We agree with your conclusion that "it seems to make little sense to authorize collection of a fee at the time of filing by some office other than the district clerk's office." We suggest that section 113.903 of the Local Government Code provides a mechanism that would enable the district clerk to collect the fee on the filing of a suit on behalf of the domestic relations office. Section 113.903 expressly allows a county, district, or precinct officer to collect money owed to the county on behalf of another county, district, or precinct officer. Chapter 203 provides ample opportunity for the Bexar County Commissioners Court, together with the administering entity, the domestic relations office (or the remainder of the Bexar County Child Support Services Department⁷), and the district clerk to work together to assess and collect the initial operations fee in an efficient manner. The fact that the statute provides that the fee is to be paid to the domestic relations office does not countermand its collection by the district clerk. If it is collected on behalf of the domestic relations office and paid to that office, it will have been paid in compliance with the statute.

Section 113.903 requires only the prior consent of the commissioners court, the officer to whom the funds are owed, and, of course, the officer who will collect the funds, the district clerk. A party filing suit affecting the parent-child relationship will generally file the petition and pay fees to the district clerk's office. It is both logical and efficient to arrange for the district clerk to collect the initial operations fee at the time suit is filed.

S U M M A R Y

A district clerk may collect an initial operations fee in certain family law cases, provided that the commissioners court establishes a domestic relations office, and the administering entity authorizes the collection of the fee. The domestic relations office may then agree with the district clerk for the clerk to collect the fee when suits are filed to be paid to the domestic relations office in a timely manner.

Yours very truly,



James E. Tourtelott
Assistant Attorney General
Opinion Committee

⁷Section 2 of the act that revised the domestic relations offices' statutes provides that an office created prior to the passage of the act may continue to operate but only as provided by the act. Act of May 19, 1995, 74th Leg., R.S., ch. 475, § 2, 1995 Tex. Gen. Laws, 3191, 3194.