

ABOUT COUNTY RECORDS

Source: 1990 edition of *Texas County Records*, published by the Texas State Library.

Most records of the county and district clerks are indexed either in each volume or externally in a cumulative index. Unless an index has been transcribed and placed in order, most county indexes are not in perfect alphabetical sequence. The indexes are updated continually, usually by added entries chronically under letter groups. For example, in a typical index to a Deed Record, all names beginning with "Ha" are gathered in one section, all those beginning with "He" in the following section, etc.

Office of the County Clerk and its Records

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During the Republic and early statehood, the office of the County Clerk was a statutory one. The Constitution of 1866 elevated it to constitutional status, but the newly acquired rank was short-lived. The office was abolished under the Constitution of 1869 and the duties of the clerk were assumed by the district clerk in each county. The office was restored in the Constitution of 1876 and has remained virtually unchanged since. The office is combined with that of the District Clerk in counties with less than 8,000 in population, unless the voters of the county choose to have separate offices.

The Texas County Clerk performs duties that in most other states are divided among two or more officials. The clerk is the county recorder and as such accepts for filing and recording a wide variety of documents from deeds to marriage licenses to cattle brands. The clerk is also clerk to the County Court, a court of limited jurisdiction in civil and criminal matters, but the principal court for probate matters. Lastly, the clerk is clerk to the Commissioners Court, the governing body of a county.

Records of Real Property: The Deed Record is among the oldest of Texas county records. One of the principal duties of county clerks under the Republic was the recording of deeds. It is, by far, the most voluminous county record. In many counties established before the 1880s, the researcher is likely to find a variety of documents, unrelated to real property matters, recorded in the Deed Record. It was only after 1879, when separate recording of deeds of trust was first required, that the Deed Record in most counties began to become more and more exclusively a record of deeds and other muniments of title. By law, the Deed Record must be indexed with reference to both grantor (direct) and grantee (reverse).

The recording of deeds of trusts or mortgages has been required by law since 1846, initially in the Deed Record, but beginning in 1879 in the Deed of Trust or Mortgage Record. Like the companion Deed Record, the Deed of Trust Record must be indexed by law; in this instance, to mortgagor (direct) and mortgagee (reverse).

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Deeds to individuals from the State of Texas under various land grant programs are usually found in the Deed Record, but in some counties they are recorded separately in a Patent Record. Many Texas counties were created from other counties and a 1879 law required that any deeds relating to property in a county recorded in the deed records of any parent counties be transcribed. In some counties, these transcribed deed records are kept in volumes separate from the main body of the Deed Record. Other laws concerning the transcription of burned deed or Spanish deed led to the creation of separate volumes of deed transcriptions in some counties.

Special land commission board were created in each county of the Republic in 1838 to issue headright certificates to qualified settlers. The boards were abolished in 1853, but a few continued to work under special legislation until the early 1860s. The Land Commissioners Minutes contain records of the proceedings of the boards as well as recorded copies of applications, bonds, oaths, and affidavits of witnesses. The minutes have not survived in some counties, but deeds to grants of land obtained through headright will likely be found in the Deed Record of the county. In addition, the General Land Office in Austin has records of all headrights granted throughout the state. Homestead Applications and a companion Homestead Record, concerning land obtained as homesteads by pre-emption or through donation or bounty warrants, were filmed in some counties, especially south Texas.

Probate Records: Since the formation of the first 23 counties under the Republic, county clerks have been required to record virtually all papers filed in probate cases in the Probate Minutes. In many counties, however, clerks began to limit the Probate Minutes to a record of the proceedings in probate cases and to record the case papers in separate volumes called the Probate Record. In some counties, the Probate Record itself was further subdivided into separate volumes relating to various aspects of the probate process -- guardianship, applications for administration, administrators' bonds and oaths, estate inventories, final accounts, probate claims, reports of sale, orders for partition and distribution, etc. Unlike many states, there has never been a requirement for separate recordation of wills in Texas, although in some counties will have been or are recorded in a Will Record.

Researchers should be aware that in some counties records of probate proceedings can be found in the District Court Minutes or District Court Civil Minutes during the period from 1869 to 1876 when the county court and the office of the county clerk were abolished. In most counties, however, wills can be found in the Probate Record. The Probate Case Papers themselves (and related records series such as Guardianship Case Papers) have been filmed in some counties.

Vital Statistics: Of the three principal vital statistics records maintained by county clerks, the Marriage Record is the oldest, dating from 1837. State law requires that the clerk record a marriage license upon issuance and record, upon return of the license, the date of the ceremony and the person performing the marriage. The use of receipt stub books (most of which have not survived in Texas counties) beginning in the 1890s, led many clerks to forgo recording licenses upon issuance, but only on return. Thus, in some counties the Marriage Records is a record of all licenses issued; in most, however, it is a record only of those licenses issued that resulted in marriage. Black marriages were recorded separately in some counties, especially during Reconstruction. This record is listed in this guide under the heading

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Marriage Record (Freedmen). A law permitting the recordation of proofs of marriage which took place before the formation of the Republic led to the creation of a Marriage Bond Record in a few counties.

Although formal application procedures to obtain a marriage license were not promulgated by the State of Texas until 1959, applications were used in some counties by custom before that date. These Marriage License Applications have not survived in most counties, but they have been filmed when found. Attestations of parents and guardians testifying to the age of marriage license applicants and giving their consent if needed were filmed when available and are listed in this guide under Marriage Affidavits. A short-lived statutory requirement (1929-1933) that three days' notice of intention to marry be given led to the creation of the Notice of Intention to Marry Record. Original, unreturned Marriage Licenses were filmed in a few counties.

Births were registered from 1873 to 1876 by the district clerk during the period when the office of the county clerk was abolished. When the office of county clerk was re-established in 1876, the requirement that births be registered was dropped; whether deliberately or through oversight is not known. This early birth record has survived in most counties and is included in this guide under the Birth Record, which begins in 1903 with the revival of mandatory registration. The county clerk was not the only registrar for births in a county -- many justices of the peace and city secretaries also recorded births -- and efforts have been made to film the birth records of these officials whenever possible. The fact that many city secretaries were local registrars should be kept in mind by the researcher; the absence of a birth record with the county clerk does not necessarily mean a person was not born in the county. If he or she was born in the city limits of a city in which the city secretary acted as a local registrar, the record of birth will not likely appear among the records of the county clerk, because city secretaries, unlike justices of the peace, were not required to forward birth records to the Bureau of Vital Statistics in Austin through county clerks.

Beginning in 1939, persons were permitted to provide proofs of birth and receive a delayed birth certificate, which was recorded by county clerks in the Birth Record (Delayed) (sometimes titled Probate Birth Record, Old Date Birth Record, or Affidavit Birth Record). The bulk of this record in most counties falls between 1941 and 1946 when persons seeking to retire under the Social Security Act sought birth certificates in large numbers. Prior to 1959, persons could apply for delayed birth certificates in the county of their residence regardless of their birthplace. Beginning in 1960, only person born in a county could obtain a delayed birth certificate in that county. Amended birth certificates were recorded in many counties in the Birth Record (Corrected).

Mandatory registration of deaths began in Texas in 1903. In researching the Death Record, bear in mind that, like records of birth, some city secretaries also maintained death records and the information in a city death record is not likely to be found in the record maintained by a county clerk. Although there are procedures for obtaining delayed death certificates, the need to do so is rare and a separate Death Record (Delayed) is found in a few counties only.

Naturalization Records: Under federal law in effect when Texas became a state, county courts as well as district courts were authorized to conduct naturalizations proceedings. By an act of Congress in 1906, this authorization was confined among state courts to those of unlimited original jurisdiction, which in Texas meant that only district courts could hold proceedings. Naturalization records of the county clerk, therefore, date from before 1906. Separately maintained naturalization records consist principally of two records series -- Declaration of Intention, in which the immigrant declares his or her intention to become a citizen, and the Naturalization Record (sometimes called Petition and Record) in which the petition for citizenship, the oath of allegiance, witness affidavits, and the order of the court granting or denying citizenship were recorded. It was not until the turn of the century, however, that standardized forms for recording declaration of intention and naturalization proceedings came into widespread use.

In the 19th century, naturalization proceedings can be found in the County Court Minutes or County Court Civil Minutes, the Probates Minutes, or even the Commissioners Court Minutes. An effort was made to film all court minutes that contain naturalization documents. Original Naturalization Petitions and Naturalization Certificate Stubs were also filmed if extant. The Works Progress Administration (WPA) indexes to naturalization records in each county were also filmed when available.

Court Records: County Court Minutes were filmed principally to preserve naturalization proceedings, but in those counties in which it was commonplace to record naturalization proceedings in county court minutes books, long runs of the minutes books have been filmed. The minutes contain accounts of proceedings in civil and, in some cases, misdemeanor matters. Dockets, which provide a calendar of the movement of cases through a court and a record of filing of case papers, were filmed in a few counties.

Miscellaneous Records: A number of records maintained by county clerks do not fall into any of the broad categories already noted. The Pauper Records is a register of paupers or indigents receiving county aid. Recorded copies of discharge papers from the United State Armed Forces, especially for service in World War I, can be found in the Discharge Record. The Occupation Tax Record lists the names of persons subject to tax because of their occupation; the number of occupations liable for tax was fairly large as late as the 1920s, ranging from peddlers of various types to money lenders to cigarette dealers, but the number was in steep decline by the late 1930s.

The Official Bond Record contains recorded copies of the bonds and oaths of county office holders. Voter Registration Lists, especially those that have survived from the 19th century, were filmed when possible. Muster Rolls, principally from the Civil War, can occasionally be found among the records of county clerks.

Office of the District Clerk and its Records: The office of district clerk has been provided for in every Constitution since the Republic. The clerk is clerk to the District Court, the principal trial court in Texas. The court serves as the court of original jurisdiction in all family law matters and as the court of appeal in probate matters.

The District Court Minutes (combined civil and criminal minutes) and the District Court Civil Minutes contain the proceedings of the district court in civil matters, including ex parte actions such as name Dawn Youngblood, PhD, Tarrant County Archivist dayoungblood@tarrantcounty.com 817-884-3272

changes. The minutes are indexed by the names of plaintiff and defendant in civil actions. Ex parte actions are indexed by the name of the petitioner, although in a few counties all ex parte actions are indexed under "e" for ex parte. Divorce Minutes began to emerge as a separate records in most counties in the 1890s. The District Court Record or Final Record, found in some counties, contains recorded copies of case papers. District Court Civil Case Papers (including any separately maintained Divorce Case Papers), relating to family law matters, are available for many of the more recently filmed counties. Dockets of various types have been filmed when they contain information on family law matters not contained in minute books.

The Declaration of Intention and the Naturalization Record are like those of the county clerk; and, also like that office, naturalization proceedings can often be found in other minutes books of the district clerk. Again, WPA indexes to these records have been filmed whenever possible.

Office of the County Superintendent of Schools and its Records: County board of trustees and officers of county superintendents of schools were abolished by state law in 1978 in all counties without common or rural school districts. The office of county superintendent could be continued through ad valorem taxation or through agreement among the independent schools districts of a county. In 1990, the office existed in only 11 of Texas' 254 counties.

Between 1905 and 1970, county superintendents conducted censuses of all school-age children in their counties. Information was then extracted from the census forms and compiled in census rolls. Since the mid-1980s, the Local Records Division and the Genealogical Society of Utah have attempted to locate, list, and from the census forms in each county. Efforts continue to be made to locate and film the census records of those counties in which filming of other records has already been completed. Censuses of schoolchildren of a different type, conducted in the 1880s and 1890s by county tax assessor-collectors, are also filmed, although in many counties these early census have been lost.

Office of the County Tax Assessor-Collector and its Records: State law, repealed in 1980, required that a copy of the annual Tax Roll of each county be filed with the State Comptroller of Public Accounts. These rolls list the property owners in each county, the appraised value of their property, and the amount of taxes due. This guide lists tax rolls on microfilm available for loan from the formation of each county through 1910.