

# *Superior Court of the State of Washington for Snohomish County*

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COURT ADMINISTRATOR  
SUPERIOR AND  
JUVENILE COURT  
RICHARD E. CARLSON

## MEMORANDUM

April 3, 2006

**TO:** Charter Review Commission

**RE:** County Clerk

As provided by Article IV, Sec. 26 of the Washington Constitution, the County Clerk is by virtue of his or her office the clerk of the court. The Washington Supreme Court has described the duties of the County Clerk as essentially ministerial in nature.

*The twelfth amendment to our state constitution directs that the legislature shall provide for the election in the several counties of different county officers, including county clerks. Article IV, § 26, of the constitution, provides that "the county clerk shall be, by virtue of his office, clerk of the superior court."*

*The duties of a county clerk as clerk of the superior court are defined both by statute and court rules. Generally speaking, a clerk of court is an officer of a court of justice, who attends to the clerical portion of its business, and who has custody of its records and files and of its seal. Such an office is essentially ministerial in its nature, and the clerk is neither the court nor a judicial officer.*

Swanson v. Olympic Peninsula Motor Coach Co., 190 Wash 35,38 (1937)

The Clerk is the custodian of the Court's records. The Clerk is subject to both State and local court rules which prescribe the manner in which those records are maintained and access to be provided to the records of the court. See GR 15, GR 22, GR 31. The Clerk also has several quasi judicial duties, which include the issuance of various writs, orders, subpoenas, and warrants authorized by the Superior Court.

Each of this court's 19 courtrooms has a clerk provided by the County Clerk to maintain docket entries of the proceedings, file documents presented, and to maintain exhibits.

The Clerk maintains records of judgments and executions, monitors, collects fees prescribed by law and legal financial obligations in criminal cases and accounts for and disburses funds. The family law facilitators who assist pro se litigants in the filing and entry of petitions and orders in family law proceedings work for the clerk's office.

Justice would be administered more efficiently if the County Clerk and the Superior Court were integrated. The court and the clerk share responsibility for a number of functions. Here are some examples:

- Jury panels used by the court are summonsed by the County Clerk's staff and assigned, oriented and paid by the court.
- Trial Confirmations are submitted to court administration and confirmations of motions are submitted to the Clerk's office.
- Some forms used in court are created and maintained by the Clerk and some are maintained and created by the court.
- Both the clerk and the Court maintain web pages and have network administrators for the computer system.
- The clerk in each courtroom is responsible to a separate elected official and not to the judge who is presiding in that courtroom.
- The Clerk's Office prepares calendars for cases set by the Superior Court but is not administratively responsible to the court for that function.

- There is a substantial duplication of effort. Payroll, personnel, purchasing, planning and budgeting, facilities management and management of court calendars is done by both entities.

In the State of Washington, all the responsibilities of the Clerk relate to supporting the operations and records of the Superior Court. In the 1870s and 1880s prior to Statehood and in 1889, when Washington was admitted to the union, there were undoubtedly sound reasons to require the election of a County Clerk. Snohomish County, as it exists today, has virtually no similarity to the Snohomish County in existence in 1889. In 1889 one Superior Court Judge was shared by Snohomish, Skagit and Whatcom Counties. Today we have fourteen judges and five Court Commissioners. Today, the daily operations of the Clerk are so intertwined with those of the Superior Court that it no longer makes any sense to maintain separate, but parallel organizations. For those reasons and the reasons set forth in our letter of February 11, 2006 the fourteen elected judges of the Snohomish County Superior Court have unanimously recommended that the County Charter provision requiring the election of a County Clerk be eliminated. We request that the County Charter provide that the County Clerk be appointed by and serve at the pleasure of the Superior Court judges and that all functions of the Clerk's Office and the staff who perform them be placed under the administrative direction of the Superior Court..