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**State of Louisiana**  
DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
P.O. BOX 94005  
BATON ROUGE  
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May 27, 2022  
OPINION 22-0051

Honorable Doug Welborn  
Clerk of Court  
19<sup>th</sup> Judicial District  
Post Office Box 1991  
Baton Rouge, LA 70821

10 CLERKS OF COURT – Compensation & Fees; Powers & Duties,  
General  
56-A JURIES

La. Const. art. VIII, § 28(A)  
La. C. C. P. art. 282

La. C. Cr. P. art. 404  
La. R.S. 13:3043

The 19<sup>th</sup> Judicial District Clerk of Court may not assume the duties of the judicial administrator pertaining to jury management and may only perform the responsibilities pertaining to jury management as provided by law.

Dear Mr. Welborn:

You requested the opinion of this office concerning whether the 19<sup>th</sup> Judicial District Clerk of Court may assume responsibilities pertaining to jury management in all financial and operational phases on behalf of the 19<sup>th</sup> Judicial District Court. Under this proposed scenario your office would also be responsible for covering any shortage in jury costs in instances of insufficient bonds.

Clerks of court are constitutionally created bodies. Louisiana Constitution Article VIII, §28(A) vests clerks of court with wide-ranging duties and powers:

In each parish a clerk of the district court shall be elected for a term of four years. He shall be ex officio notary public and parish recorder of conveyances, mortgages, and other acts and shall have other duties and powers provided by law. The clerk may appoint deputies with duties and powers provided by law and, with the approval of the district judges, he may appoint minute clerks with duties and powers provided by law.

Thus, the Louisiana Constitution requires clerks of court to perform "other duties and powers provided by law." Considering this constitutional provision, the powers and duties a clerk of court may perform with respect to jury management must be specifically provided for in law. Louisiana Code of Civil Procedure article 282 sets forth actions which may be performed by clerks of court, but does not specifically address jury management.<sup>1</sup>

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<sup>1</sup> Article 282 provides in full as follows:

The clerk of a district court may:

(1) Grant an appeal and fix the return day thereof; fix the amount of the bond for an appeal, or for the issuance of a writ of attachment or of sequestration, or for the release of property seized under any writ, unless fixed by law; appoint an attorney at law to represent a nonresident, absent, incompetent, or unrepresented defendant; or dismiss without prejudice, on application of plaintiff, an action or proceeding in which no exception, answer, or intervention has been filed; and

The jury commission performs functions pertaining to jury management and is responsible for the selection of the jury venire.<sup>2</sup> The jury commission consists of the clerk of court and four court-appointed citizens.<sup>3</sup> The jury commission may issue subpoenas and compel the attendance of witnesses and production of evidence relative to the qualifications of prospective jurors.<sup>4</sup> Louisiana Revised Statute 13:3043 provides:

The membership of the jury commission, the qualifications, appointment, term of service, oath, and quorum of the commissioners, and the requirement of public meetings are governed by Article 404 of the Louisiana Code of Criminal Procedure. Notice of jury commission meetings is governed by Article 405 of the Louisiana Code of Criminal Procedure.

Louisiana Code of Criminal Procedure article 404(B) sets forth the duties of the jury commission and states with respect to the parish of East Baton Rouge:

*In the parish of East Baton Rouge the function of the jury commission shall be performed by the judicial administrator of the Nineteenth Judicial District Court or by a deputy judicial administrator designated by him in writing to act in his stead in all matters affecting the jury commission. The judicial administrator or his designated deputy shall have the same powers, duties and responsibilities, and be governed by those provisions of law as presently pertain to jury commissioners which are applicable, including the taking of an oath to discharge their duties faithfully. The clerk of court of the parish of East Baton Rouge shall perform the duties and responsibilities otherwise imposed upon him by law with respect to jury venires, shall coordinate the jury venire process, and shall receive the compensation generally authorized for a jury commissioner.*<sup>5</sup>

East Baton Rouge Parish is the sole parish that allocates the duties of the jury commission to a judicial administrator. Pursuant to La. C. Cr. P. art. 404(C)–(J), the functions of a jury commission are performed by the clerks of court for the various parishes, not a judicial administrator. Considering that La. C. Cr. P. art. 404(B) delegates most functions of a jury commission to the judicial administrator, the 19<sup>th</sup> Judicial District Clerk of Court would not have the authority to assume those duties delegated in law to the judicial administrator. Nor could the clerk's salary fund be used to pay the expenses incurred by the 19<sup>th</sup> Judicial District Clerk of Court for duties specific to the judicial administrator.

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(2) Probate a testament, when there is no opposition thereto; homologate an inventory; confirm or appoint a tutor, undertutor, undertutor ad hoc, curator, undercurator, undercurator ad hoc, administrator, executor, or dative testamentary executor, when there is no opposition thereto; appoint an attorney for absent heirs; and approve and accept the bond required of a legal representative for the faithful performance of his duties.

<sup>2</sup> La. C. Cr. P. art. 408(A).

<sup>3</sup> La. C. Cr. P. art. 404(1).

<sup>4</sup> La. C. Cr. P. art. 406.

<sup>5</sup> Emphasis added.

Considering the foregoing, it is the opinion of this office that the 19<sup>th</sup> Judicial District Clerk of Court may not assume the duties of the judicial administrator and may only perform the responsibilities pertaining to jury management as provided by law.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

JEFF LANDRY  
ATTORNEY GENERAL

BY:   
Amanda M. LaGroue  
Assistant Attorney General

JL:AML