

ORDINANCE No. 06-28-23.10A

**AN ORDINANCE TO PROVIDE FOR
A SEPARATE CLERK OF THE PROBATE COURT**

Whereas, Sandoval County is a political subdivision of the State of New Mexico;
and

Whereas, NMSA 1978, § 4-37-1 (1975) gives the Board of County Commissioners the power to “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants” and to make ordinances to carry out that authority; *and*

Whereas, the New Mexico constitution, Article 6, Section 22, provides that until otherwise provided by law, the county clerk in each county shall perform the duties of the clerks of the district courts and clerks of the probate courts; *and*

Whereas, from Statehood in 1912 through 1959, the County Clerk served as the Clerk of the District Court and of the Probate Court; *and*

Whereas, in 1959 the Legislature created the Administrative Office of the Courts, which moved duties relating to the District Court from the County Clerk to a designated District Court Clerk; *and*

Whereas, in 2023, the Legislature passed Senate Bill 248, which was signed into law as Laws of 2023, Chapter 44; *and*

Whereas, the newly enacted statute amended NMSA 1978, § 34-7-22(B) (2023) to provide that “The board of county commissioners of a county may by ordinance provide for a separate clerk of the probate court who shall have the power to appoint deputy clerks and the fees received by that probate court shall be deposited in the county general fund;”
and

Whereas, in Sandoval County the functions of the Probate Court Clerk have been separated from those of the Sandoval County Clerk for some time and the Board of County Commissioners desires to codify that separation in compliance with the new state law;

Whereas, the Board of County Commissioners on May 10, 2023, approved Resolution 5-10-23.11D, which authorized publication of the notice of the proposed ordinance that was required by NMSA 1978, § 4-37-7(A) (1981); *and*

Whereas, notice of the proposed ordinance was published in the *Albuquerque Journal*, a newspaper of general circulation in Sandoval County, on June 7 and June 17, 2023, giving the notice required by NMSA 1978, § 4-37-7(A) (1981);

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SANDOVAL, NEW MEXICO:

Section 1. There is hereby enacted a new article in Chapter 2 of the Sandoval County Code of Ordinances as follows.

Chapter 2. Administration.
Article VII. Probate Court.

Section 2-230. Probate Court Clerk Created.

The office of the Clerk of the Probate Court is created. The Clerk of the Probate Court shall be responsible for fulfilling the duties and responsibilities described in Chapter 34, Article 7, NMSA 1978.

Section 2-231. Deputy Probate Court Clerks.

- A. The Clerk of the Probate Court may, in coordination with the Probate Judge and the County Manager, appoint Deputy Clerks of the Probate Court to assist in the duties of the Clerk of the Probate Court. Deputy clerks may only be appointed after such positions have been authorized and budgeted by the Board of County Commissioners.
- B. Such deputy clerks shall have full power to perform all the duties of the Clerk of the Probate Court.

Section 2-232. Employment Status.

The Clerk of the Probate Court and all deputies shall be classified employees of Sandoval County subject to the personnel rules and regulations.

Section 2-233. Hours of Operation.

The Clerk of the Probate Court shall determine and publish on the County's website the days and times when the Probate Court shall be open and available for the filing of documents. Notice shall also be posted at the offices of the Probate Court.

Section 2-234. Probate Court Fees.

All fees received by the Probate Court shall be deposited in the County General Fund.

Section 2. This ordinance shall be effective immediately.

Enacted June 28, 2023.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SANDOVAL

David J. Heil, Chairman

Michael Meek, Vice-Chairman

Katherine Bruch, District 1 Commissioner

Jay C. Block, District 2 Commissioner

Joshua Jones, District 5 Commissioner

ATTEST:

Anne Brady-Romero, County Clerk

APPROVED AS TO FORM:

Michael Eshleman, County Attorney