

## SCHEDULE OF FEES FOR APPOINTED ATTORNEYS FOR BROWN AND MILLS COUNTIES

The following guidelines and rules have been approved by the 35<sup>th</sup> Judicial District Court, the Brown County Court at Law, Brown County Court, Mills County Court, and the Juvenile Board of Brown and Mills Counties regarding the payment of fees and expenses of attorneys who are appointed under Texas Code of Criminal Procedure, Section 26.05.

### I.

#### FELONY FLAT RATE FEES

Except under unusual circumstances where the flat rate fee would be manifestly inappropriate because of circumstances beyond the control of appointed counsel, or the complexity of the case/legal issues, compensation for court appointed counsel in felony cases shall be as follows:

1. Plea Bargained cases:

a.	1 <sup>st</sup> & 2 <sup>nd</sup> Degree	\$500.00
b.	3 <sup>rd</sup> Degree and State Jail	\$400.00
c.	Motions to Revoke/Adjudicate	\$400.00
d.	Payment on refusals to prosecute	\$200.00
e.	Multiple felonies with same defendant disposed of as a result of plea in another case	\$100.00 per case
f.	Felony charge reduced to a misdemeanor	\$300.00

2. Contested Pretrials, Trials, or Contested Motions to Revoke or Adjudicate:

\$350.00 per ½ day plus \$75.00 per hour for trial preparation with a maximum of 10 hours.

3.	Appeal:		
	a.	Filing Motion for New Trial (without hearing) (with hearing)	\$100.00 \$200.00
	b.	Appeal to the Court of Appeals (includes brief and oral argument)	\$1,500.00
	c.	Appeal to the Court of Criminal Appeals (if PDR granted)	\$1,000.00
	d.	Post-conviction Writ of Habeas Corpus proceeding	\$400.00

## II.

### FELONY HOURLY RATES FOR PRETRIAL AND TRIAL

1. Hourly rate compensation for legal services other than those listed above under “fixed rate” services shall be used only for complex cases or other circumstances making payment under the fixed rate grossly inadequate. To be compensated under an hourly fee method, the lawyer shall keep an accurate and detailed account of time expended, services rendered, and dates involved. Attorneys are required to provide detailed attorney fee vouchers requesting payment for cases paid by hourly rate to the nearest .10/hr. Hourly rates for all documented time incurred in the representation of the defendant in the assigned case shall only be for services that a qualified professional would agree was objectively reasonable and necessary for the representation of the defendant.

2. Except in capital cases where the death penalty is being sought, the hourly rate under such submission shall be \$75.00 per hour for time spent in or out of court reasonably necessary for adequate representation of the indigent defendant.

3. If an attorney is appointed to represent a defendant in multiple cases and the attorney requests a fee based on an hourly rate, the attorney shall submit one request for attorney fees that is for all time spent on all of the cases. Unless requested by the court, it is not necessary for the attorney to divide the time among the several cases.

4. Fees based on an hourly rate are subject to a maximum of \$4,000.00. This maximum limit is for services rendered until charges are dismissed, the defendant is acquitted, completion of trial, and any post-trial proceedings in the trial court (including filing and presenting a Motion for New Trial) or the attorney is relieved of duties by the court or replaced by other counsel.

### **III.**

#### **FELONY HOURLY RATES FOR APPEALS**

1. The court will determine the appropriate hourly rate based upon the complexity of the case and the experience and ability of the appointed attorney. Compensation for appellate legal services other than those listed above under “fixed rate” services shall be used only for complex cases or other circumstances making payment under the fixed rate grossly inadequate. To be compensated under an hourly fee method, the lawyer shall keep an accurate and detailed account of time expended, services rendered, and dates involved. Attorneys are required to provide detailed attorney fee vouchers requesting payment for cases paid by hourly rate to the nearest .10/hr. Hourly rates for all documented time incurred in the representation of the defendant in the assigned case shall only be for services that a qualified professional would agree was objectively reasonable and necessary for the representation of the defendant.
2. Except in capital cases where the death penalty is being sought, the hourly rate under such submission shall be \$75.00 per hour for legal services rendered on appeal. Fees based on an hourly rate for appellate services are subject to a maximum of \$3,500.00.

### **IV.**

#### **CAPITAL CASE COMPENSATION WHEN DEATH PENALTY IS BEING SOUGHT**

Other than any agreement with the Regional Public Defender for Capital Cases, in all capital cases where the State has not waived the death penalty, the rates for the attorney services shall be \$150.00 per hour for the 1<sup>st</sup> chair attorney and \$100.00 per hour for 2<sup>nd</sup> chair attorney.

### **V.**

#### **MISDEMEANOR FLAT RATE FEES**

Except under unusual circumstances where the flat rate fee would be manifestly inappropriate because of circumstances beyond the control of appointed counsel, or the complexity of the case/legal issues, compensation for court appointed counsel in misdemeanor cases shall be as follows:

1. Plea Bargained cases:

- |    |  |                  |
|----|--|------------------|
| a. | Class A or B Misdemeanor   | \$300.00         |
| b. | Motions to Revoke/Adjudicate   | \$250.00         |
| c. | Payment on refusals to prosecute   | \$100.00         |
| d. | Multiple misdemeanors with same defendant disposed<br>of as a result of plea in another case<br>(Until a maximum of \$1,000.00 is reached.<br>Fees are capped at \$1,000.00 per defendant) | \$50.00 per case |

2. Contested Pretrials, Trials, or Contested Motions to Revoke or Adjudicate:

\$300.00 per ½ day plus \$60.00 per hour for trial preparation with a maximum of 4 hours.

**VI.**

**MISDEMEANOR HOURLY RATES**

1. The court will determine the appropriate hourly rate based upon the complexity of the case and the experience and ability of the appointed attorney. Compensation for appellate legal services and any other services on misdemeanor cases other than those listed above under “fixed rate” services shall be used only for complex cases or other circumstances making payment under the fixed rate grossly inadequate. To be compensated under an hourly fee method, the lawyer shall keep an accurate and detailed account of time expended, services rendered, and dates involved. Attorneys are required to provide detailed attorney fee vouchers requesting payment for cases paid by hourly rate to the nearest .10/hr. Hourly rates for all documented time incurred in the representation of the defendant in the assigned case shall only be for services that a qualified professional would agree was objectively reasonable and necessary for the representation of the defendant. The hourly fee rate in such misdemeanor cases shall be \$60.00 per hour.

2. Fees based on an hourly rate for appellate services are subject to a maximum of \$1,000.00.

**VII.**

**JUVENILE CASES**

Compensation for court appointed counsel services in all juvenile cases shall be as follows:

1. A flat fee for the plea and disposition of a case shall be \$300.00.
2. An hourly fee of \$60.00 per hour per hour for reasonable and necessary time spent in or out of court reasonably necessary for adequate representation of the indigent child.

## **VIII.**

### **EXPENSES AND NON-STANDARD FEES**

Except as provided below, attorneys should request approval from the court for expenses before incurring the following: travel, investigation, expert witness fees, and other expenses.

Investigation expenses and expert expenses are governed by Texas Code of Criminal Procedure, Article 26.05(d) and 26.05(f),(g) and (h), and the plan approved by the courts for providing indigent defense. Ordinarily, investigation by private investigators shall be at a rate of \$55.00 per hour for investigation, and \$25.00 per hour for travel.

## **IX.**

### **REQUEST FOR PAYMENT OF ATTORNEY'S FEES AND EXPENSES**

Each attorney shall prepare a detailed statement utilizing the forms approved by the courts of the nature of the services performed, the date of such performance, and the actual time spent on each such date and service, and shall submit said statement with a verified affidavit to the trial judge:

- a. on the date of disposition of a case by a plea or bench trial; or
- b. within 45 days of the date of verdict in a jury trial; or
- c. within 45 days of the date the mandate being returned in an appeal; or
- d. at such other intervals as ordered by the Court.
- e. within 30 days after adjudication or disposition of a juvenile case by plea or bench trial; or
- f. within 30 days after the conclusion of each pre-trial or certification hearing in a juvenile case.

If the trial judge disapproves the requested amount the judge shall make written findings stating the amount of payment approved and the reason for approving an amount different from the requested amount. The attorney whose request for payment has been disapproved may, by written motion, file an appeal with the Presiding Judge of the Administrative Region.

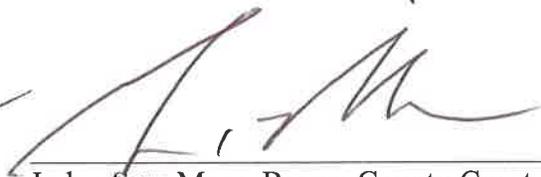
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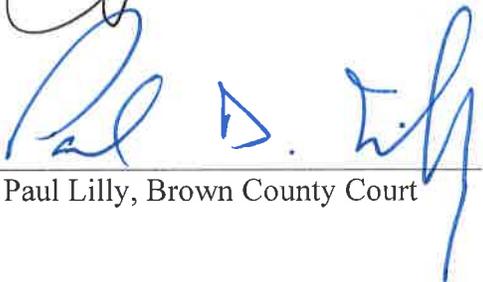
**MISCELLANEOUS PROVISIONS**

These rules and guidelines amend those previously adopted and are effective on all appointments made after the date of this order. These provisions are in compliance with the Texas Code of Criminal Procedure and may be amended at the discretion of the courts.

Signed and ORDERED this the 24 day of OCTOBER, 2019.

  
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Judge Stephen Mills, 35<sup>th</sup> District Court

  
\_\_\_\_\_  
Judge Sam Moss, Brown County Court  
at Law

  
\_\_\_\_\_  
Judge Paul Lilly, Brown County Court

  
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Judge Ed Smith, Mills County Court