



DENTON COUNTY STATUTORY COUNTY COURTS

2019-2020
INDIGENT DEFENSE PLAN

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Denton County Courts Plan

Prompt Magistration

A. ARRESTING OFFICER RESPONSIBILITIES

- I. The arresting officer, or the person having custody of the arrestee, shall ensure that every arrestee shall be brought before a magistrate without unnecessary delay, but not later than 48 hours after the person is arrested.
- II. Unless arrested pursuant to an arrest warrant, bench warrant, capias, or other order of a magistrate or judge, necessary forms establishing probable cause must be completed and filed at the time an arrestee is booked into jail for any felony or misdemeanor punishable by incarceration.
- III. Release of defendants arrested without warrant
 1. A person arrested for a misdemeanor without a warrant and who is detained in jail must be released not later than the 24th hour after arrest, on a bond in an amount not to exceed \$5,000, if a magistrate has not determined that probable cause exists to believe that the person committed the offense.
 2. If requested by the state, a magistrate may postpone the release of the defendant for not more than 72 hours after the defendant's arrest if a probable cause determination has not been made, in compliance with the procedure set forth in Article 17.033, Texas Code of Criminal Procedure.

B. MAGISTRATE DUTIES

- I. At the Magistrate's hearing, the magistrate should determine if accused can speak and understand English, or if the defendant is deaf.
- II. After making such determination, the magistrate shall, in an appropriate manner consistent with Texas Code of Criminal Procedure Articles and 38.31, do the following:
 1. Advise the accused of the accusation against him/her and any affidavit filed therewith;
 2. Admonish the accused of:
 - a. The right to retain counsel;
 - b. The right to remain silent;
 - c. The right to have an attorney present during any interview with peace officers or attorneys representing the state;
 - d. The right to terminate an interview at any time;

- e. The right not to make a statement and that any statement made by the accused may be used against him/her, and
 - f. The right to an examining trial
- 3. Inform the accused of the right to appointed counsel if the person cannot afford counsel and the procedures for requesting appointment of counsel.
- 4. Inquire as to whether accused is requesting that counsel be appointed.
- 5. Provide accused persons requesting appointed counsel with necessary forms for requesting appointment of counsel and ensure that reasonable assistance in completing required forms is provided to the accused at the time of the magistrate's hearing.
- 6. If the magistrate has reason to believe the accused is not mentally competent, the magistrate shall enter a request for counsel on behalf of the accused.
 - a. Such a request will alert the appointing authority that counsel competent to represent mentally ill persons should be appointed.
 - b. In cases where the individual was arrested without an arrest warrant, bench warrant, *capias*, or other order of magistrate or judge, the magistrate shall determine if there is probable cause to believe the person committed the offense.
 - c. If probable cause has not been determined by a magistrate:
 - i. A person arrested for a misdemeanor must be released on bond, in an amount not to exceed \$5,000, not later than 24 hours after the person's arrest.
 - ii. If requested by the state, the magistrate may postpone the release of the defendant for not more than 72 hours after the defendant's arrest, in compliance with the procedure set forth in Article 17.033, Texas Code of Criminal Procedure.
- 8. The magistrate shall set the amount of bail and any conditions of bond for the accused, if bail is allowed by law, or has not been set or determined by the court in which is has been filed after complaint, information or indictment.
 - a. The magistrate shall record the following:
 - i. The date and time the accused was arrested
 - ii. The date and time when he/she was brought before the magistrate.
 - iii. Whether the magistrate informed the accused of the right to request appointment of counsel and asked the accused whether he/she wants to request counsel.

- iv. Whether the accused requested appointment of counsel.
9. If the magistrate who arraigns the accused/defendant cannot appoint counsel, then the magistrate shall transmit the "Application for Court-Appointed Attorney and Financial Affidavit" by fax (940-349-2101) or mail to the Honorable Coby Waddill, Local Administrative Judge for the Denton County Statutory Courts, 1450 E. McKinney, Suite 2315, Denton, Texas 76209-4524, no later than 24 hours after the application is received and completed by the arraigning magistrate.
10. If an indigent accused/defendant requests appointment of counsel, the Court or the Court's designee shall appoint counsel if authorized under Texas Code of Criminal Procedure Article 1.051, not later than the end of the first working day after the date on which the Court or Court's designee receives the request.
11. A written record shall be made of magistrate's advising accused/defendant of their right to appointed counsel and all such information shall be forwarded to the Honorable Coby Waddill, Local Administrative Judge for the Denton County Statutory Courts, 1450 E. McKinney, Suite 2315, Denton, Texas 76209- 4524.
12. Upon presentation of any person arrested in the custody of the Denton County Sheriff on warrants issued from any other county in the State of Texas, the magistrate before whom they appear will ask the defendant if he/she would like to request appointed counsel. The magistrate will record the response, and if counsel is requested, the magistrate will, provide the arrestee with the Denton County promulgated form for requesting court-appointed attorney based on indigency, or contact the county from which the warrant was issued to obtain that county's financial affidavit and provide it to the arrestee for completion. The magistrate will ensure that reasonable assistance in completing the forms is given to defendant in order to complete the application process. The forms will be transmitted to the appointing authority in the county issuing the warrant within 24 hours of the request being made.

Determination of Indigence

A. DEFINITIONS, AS USED IN THIS RULE:

- I. "Indigent" means a person who is not financially able to employ counsel.
- II. "Net household income" means all income of the accused and spousal income actually available to the accused. Such income shall include:

1. Take-home wages and salary (gross income earned minus those deductions required by law or as a condition of employment)
 2. Net self-employment income (gross income minus business expenses, and those deductions required by law or as a condition of operating the business)
 3. Regular payments from a governmental income maintenance program, alimony, child support, public or private pensions, or annuities
 4. Income from dividends, interest, rents, royalties, or periodic receipts from estates or trusts
 5. Seasonal or temporary income shall be considered on an annualized basis, averaged together with periods in which the accused has no income or lesser income
- III. "Household" mean all individuals who are actually dependent on the accused for financial support.
- IV. "The cost of obtaining competent private legal representation" includes the reasonable cost of support services such as investigators and expert witnesses as necessary and appropriate given the nature of the case.

B. ELIGIBILITY FOR APPOINTMENT

- I. An accused may be considered indigent if any of the following conditions or factors are present:
1. At the time of requesting appointed counsel, the accused or accused's dependents are eligible to receive food stamps, Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, or public housing.
 2. The accused's net household income does not exceed 125% of the Poverty Guidelines as revised annually by the United States Department of Health and Human Services and published in the Federal Register; or
 3. The accused is currently serving a sentence in a correctional institution, is currently residing in a public mental health facility, or is subject to a proceeding in which admission or commitment to such a mental health facility is sought.
- II. An accused who does not meet any of the standards above shall nevertheless be considered indigent **if** the accused is unable to retain private counsel without substantial hardship to the accused or the accused's dependents. In considering if obtaining private counsel will create a substantial hardship, the appointing authority shall take into account:

1. The nature of the criminal charge(s);
 2. Anticipated complexity of the defense;
 3. The estimated cost of obtaining competent private legal representation for the matters charged;
 4. Amount needed for the support of the accused and the accused's dependents;
 5. Accused's income;
 6. Source of income;
 7. Assets and property owned;
 8. Outstanding obligations;
 9. Necessary expenses;
 10. The number and ages of dependents;
 11. Spousal income that is available to the accused;
 12. Such other reasonable factors as determined by the judge, and
- III. Factors NOT to be considered in determining indigence:
1. The accused's posting of bail or ability to post bail may not be considered in determining whether the accused is indigent.
 2. The resources available to friends or relatives of the accused may not be considered in determining whether the accused is indigent.

C. INDIGENCE PROCEEDINGS:

- I. Appointing authority can require the accused to respond to questions about the accused's financial status, produce documentation supporting financial information provided, and/or a court official to verify financial information provided.
- II. Information gathered for determining indigence, both in the affidavit of indigence and through oral examination, may not be for any purpose other than:
 1. Determining if accused is (or is not) indigent; or
 2. Impeaching direct testimony of accused regarding the accused's indigence
- III. A request by the appointing authority for additional information, documentation, and/or verification cannot delay appointment of counsel beyond the time lines specified in Parts I and IV of these rules and contained in Code of Criminal Procedure article 1.051.
- IV. An accused determined to be indigent is presumed to remain indigent for the remainder of the case unless a material change in the accused's financial circumstances occurs.

1. An accused's status as indigent or not indigent may be reviewed in a formal hearing at any stage of court proceedings, on a motion for reconsideration by the accused, the accused's attorney, or the attorney representing the state. The accused's indigent status will be presumed not to have changed. The presumption can be rebutted in the review proceedings based on the following:
 - a. Evidence of a material change in the accused's financial circumstances, as a result of which the accused does not meet any of the standards for indigence contained in these rules; or
 - b. Additional information regarding the accused's financial circumstances that shows that the accused does not meet any of the standards for indigence contained in these rules.
2. If an accused previously determined to be indigent is subsequently determined not to be indigent, the attorney shall be compensated by the county according to the fee schedule.
3. If the court determines that a defendant has financial resources that enable him to offset in part or in whole the costs of the legal services provided, including any expenses and costs, the court shall order the defendant to pay during the pendency of the charges or, if convicted, as court costs the amount that it finds the defendant is able to pay.

Minimum Attorney Qualification

A. COURT APPOINTED ATTORNEY LIST QUALIFICATIONS

- I. The Judges hearing criminal cases shall establish attorney appointment lists for misdemeanor offenses.
- II. Nothing in this plan is intended or shall be construed to obligate Denton County by contract or to bestow any right of employment.
- III. To be eligible for an appointment list, an attorney must meet the following minimum requirements:

Misdemeanor Qualification Requirements:

1. All attorneys on the appointment list must ensure all information on their application is correct;

2. An attorney must be a licensed practicing attorney and a member in good standing of the State Bar of Texas;
3. Attorney must complete at least ten (10) hours of CLE in criminal law each year. This requirement is waived for the initial application process. All attorneys must file a copy of their Continuing Legal Education annual report form (or a list of CLE completed if the attorney has been licensed less than one year) no later than October 1 of each year with the Statutory County Court Administrator. A maximum of five (5) hours of self-study will count toward CLE requirement(s). Attorney may carry over up to ten (10) hours in criminal law to the next reporting year. Those attorneys who fail to comply with the CLE provisions of the plan will be removed on October 15 of each year unless good cause is shown not to do so;
4. Attorneys must devote at least thirty (30%) percent of their time practicing criminal law in the State of Texas **or** must be board certified by the Texas Board of Legal Specialization in criminal law;
5. Attorneys must have handled at least five (5) contested criminal trials before the court and/or five (5) criminal jury trials and/or criminal appeals greater than Class "C" offenses with lead counsel experience in at least two (2) cases;
6. An attorney may not have been the recipient of any public disciplinary action by the State Bar of Texas or any other attorney licensing authority of any state or the United States within the last three (3) years. Attorneys appointed must not have been found by any court to have engaged in professional misconduct within the last three (3) years;
7. An attorney must maintain an office with operational/functional equipment able to receive from the courts and appointed clients email, fax, telephone calls and voice messages;
8. An attorney must have the ability to produce typed motions and orders;
9. An attorney shall notify the court administration office promptly, in writing, of any matter that would disqualify the attorney by law, regulation, rule or under these guidelines from receiving appointments to represent indigent defendants;
10. Attorneys applying for inclusion in the Denton County Statutory County Courts Indigent Defense Plan agree to be bound by and accept as a condition of their appointment the schedule for Court-Appointed attorney's fees for the County Courts of Denton County pursuant to Article 2.05 of the Code of Criminal Procedure;
11. Attorneys may not be on community supervision probation, deferred adjudication or participating in the diversion program, or owe fines or court costs for any criminal offense above the level of Class "C" misdemeanor;

12. Attorneys must not be currently under indictment or charged with a criminal offense involving moral turpitude;
13. Attorneys may not have a judgment or outstanding debt (and currently in default) to any governmental entity or federally insured program;
14. To be eligible to receive appointments in misdemeanor cases, not otherwise covered under other rules an attorney must:
 - a. Maintain principal office, as listed on the State Bar of Texas website, in Denton County, Texas; and
 - b. Must file an affidavit by October 1 of each year stating that they are qualified to accept appointments and that eighty (80) percent of their total criminal cases are pending in a court-of-record in Denton County, Texas;
 - c. Shall submit by October 15 each year a statement that describes the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in this in this county for adult criminal cases and juvenile delinquency cases for the prior 12 months that begins on October 1 and ends on September 30. The report must be submitted through the online form to the Texas Indigent Defense Commission.
15. All attorneys must complete an application/affidavit and provide all relevant information to be considered for inclusion in the Denton County Statutory County Courts Indigent Defense Plan;
16. All attorneys meeting the qualifications for appointment and having been approved by a majority of the Denton County Statutory County Court Judges exercising criminal jurisdiction shall be placed on one of two master lists:
 - a. The Regular List or
 - b. The Language Proficiency List
17. All applications/affidavits will be reviewed, discussed, and voted on as they are received by the Statutory County Court Judges

B. APPROVAL FOR APPOINTMENT LIST(S)

- I. In order to be added to the Misdemeanor List, an attorney must be approved by a majority of the Statutory County Court Judges hearing criminal cases.

C. DUTIES AND RESPONSIBILITIES OF APPOINTED COUNSEL

- I. Appointed Counsel shall make every reasonable effort to:
 1. Contact the defendant by the end of the first working day after the date on which the attorney is appointed.
 2. Interview the defendant as soon as practicable after the attorney is appointed;
 3. All attorneys are required to visit defendants who are incarcerated in the Denton County Jail in person, not through an associate, no later than three (3) working days after the date of their appointment and/or after notification of their incarceration.
 4. Attorneys appointed by the Court will preferably be able to speak the language of the defendant.
 - a. If Denton County does not have at least ten (10) attorneys on the appointment list that have been determined to speak the defendant's language (determination is to be made in the same manner Denton County determines to pay their employees for language proficiency) then attorneys with an employee proficient in the language will be added to the language proficiency list.
 - b. If neither situation applies, the appointment will be made from the regular appointment list, and Denton County will find and appoint an interpreter to work with the attorney.
 - i. Attorneys that are using employees to qualify for this list must annually (October 1) provide an affidavit from the employee. This affidavit must state their name and that they have the capability to communicate in legal terms to meet the language proficiency requirements.
 - ii. If such employee is terminated, the attorney has five (5) business days to notify the courts of termination and will be moved to the non-Spanish speaking appointment list. However, the attorney can remain on the Spanish speaking list if they are able to provide an affidavit from a new employee that meets the language proficiency requirements.
 - iii. Certified interpreters will not be provided to attorneys on the language proficiency list for jail visits, court settings, etc., without prior approval from the Judge of the court.
 - iv. Attorneys qualifying for the Spanish speaking list shall not bill

the county for their language proficient employee nor include this as incidental expenses.

5. Investigate, either by self or through an investigator, the facts of the case and be prepared to present any factual defense(s) that may be reasonably and arguably available to the defendant.
6. Brief the law of the case and be prepared to present any legal defense(s) that may be reasonably and arguably available to the defendant.
7. Be prepared to negotiate with the prosecutor for the most favorable resolution of the case as can be achieved through a plea agreement.
8. Be prepared to try the case to conclusion either with or without a jury.
9. Be prepared to file post-trial motions, give notice of appeal and appeal the case pursuant to the standards and requirements of the Texas Rules of Appellate Procedure.
10. Maintain reasonable communication and contact with the client at all times and keep the client informed of the status of the case.
11. Advise the client on all matters involving the case and such collateral matters as may reasonably be required to aid the client in making appropriate decisions about the case.
12. Perform the attorney's duty owed to the defendant in accordance with these procedures, the requirements of the Code of Criminal Procedure, and applicable rules of ethics.
13. Manage attorney's workload to allow for the provision of quality representation and the execution of the responsibilities listed in these rules in every case.
14. Attorneys appointed are responsible to ascertain whether an indigent client has a pending felony or is subsequently charged with a felony offense to which another attorney has been appointed.
 - a. If this occurs, it shall be the misdemeanor attorney's immediate responsibility to inform the Court and the felony appointed attorney so that a substitution may be effected. The withdrawing misdemeanor attorney shall immediately make arrangements for an orderly transfer of his/her file(s) and also must submit their bill for services to the appropriate Court.
15. An attorney must maintain an office that has operational and functional equipment that is able to receive from the courts and appointed clients email, fax, telephone calls and voice messages.

II. Appointed Counsel will represent the defendant until:

1. Charges are dismissed;
2. The defendant is acquitted;
3. Appeals are exhausted; or

4. The attorney is relieved of his duties by the court or replaced by other counsel after a finding of good cause entered on the record.

D. REMOVAL FROM APPOINTMENT LIST(S)

- I. An attorney may be removed or suspended, as appropriate, from one or more appointment lists by a majority vote of the judges.
- II. The judges will monitor attorney performance on a continuing basis to assure the competency of attorneys on the list.
- III. An attorney may be removed by a majority vote of the judges trying criminal cases from the Court-Appointed Attorney List if:
 1. Attorney has been consistently found not to have made an effort to contact the accused/defendant(s) by the end of the first working day.
 2. Does not interview the accused/defendant(s) as soon as possible.
 3. Fails to visit defendants who are incarcerated in the Denton County Jail in person, not through an associate, no later than three (3) working days after the date of their appointment and/or after notification of their incarceration.
 4. Attorney has been found not to have faithfully fulfilled the duties and responsibilities imposed upon him/her as a result of his court-appointed representation.
 5. Attorney consistently submits expenses which exceed what the judges consider to be reasonable for the type of case.
 6. Failure to complete at least ten (10) hours CLE in criminal law each year. This must be reported no later than October 1 of each year to the Statutory County Court Administrator.
 - a. Those attorneys who fail to comply with the CLE provisions of the plan will be removed on October 15 of each year unless good cause is shown not to do so.
 7. Failure to complete and submit the online form promulgated by the Texas Indigent Defense Commission (TIDC) by October 15 of each year. This form is available on the TIDC website and must set forth the percentage of the attorney's practice time devoted to work performed for court appointments on adult criminal cases and juvenile delinquency cases for the prior 12 months that begins on October 1 and ends September 30.

E. REINSTATEMENT TO APPOINTMENT LIST(S)

- I. An attorney who was removed from the appointment list for non-completion of the required CLE hours may be immediately reinstated upon providing proof that the attorney has completed the

required hours so long as the attorney otherwise meets the other qualifications under this Plan.

- II. An attorney who has been removed from the appointment list for any other reason and who wishes to be reinstated must apply through the original application process.

Prompt Appointment of Counsel

A. PROMPT APPOINTMENT OF COUNSEL

- I. Counsel shall be appointed as soon as possible to indigent defendants, but no later than the end of the first working day, Monday through Friday, excluding official state holidays, after the date on which the appointing authority receives the defendant's request for court appointed counsel. Counsel must be appointed whether or not a case has been filed in the trial court.
- II. If the defendant is released from custody prior to the appointment of counsel, appointment of counsel is not required until the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.
- III. If an indigent defendant is arrested in another county based on this county's warrant, counsel will be appointed within 1 working day of this county's receipt of the request for counsel.
- IV. If a defendant is arrested in this county based on another county's warrant, counsel will be appointed for the defendant if, on the eleventh day after the arrest, the defendant is still in this county's custody.
- V. If a defendant wishes to request counsel prior to the initial appearance, the forms required to request counsel may be obtained at the Texas Indigent Defense Commission's website, <http://tidc.tamu.edu/public.net/>, or from The Denton County Website, <http://dentoncounty.com/Departments/County-Courts/County-Court-Administration/Forms.aspx>
- VI. The court will rule on all requests for counsel submitted in this manner.

B. APPOINTMENT AUTHORITY

- I. If no case has been filed in the trial court, the appointing authority for misdemeanors is the Denton County Magistrate Robin Ramsay.
- II. If the case has been filed in the trial court, the appointing authority is the judge of the court where the case is pending or the judge's designee.

C. DEFENDANTS APPEARING WITHOUT COUNSEL

- I. If a defendant appears without counsel in any adversary judicial proceeding that may result in punishment by confinement:
 1. The court may not direct or encourage the defendant to communicate with the attorney representing the state until the court advises the defendant of the right to counsel and the procedure for requesting appointed counsel and the defendant has been given a reasonable opportunity to request appointed counsel.
 2. If the defendant has requested appointed counsel, the court may not direct or encourage the defendant to communicate with the attorney representing the state unless the appointing authority has denied the request and, subsequent to the denial, the defendant:
 - a. Has been given a reasonable opportunity to retain and has failed to retain appointed counsel; or
 - b. Waived or has waived the opportunity to retain private counsel.
- II. The attorney representing the state may not:
 1. Initiate or encourage an attempt to obtain from the defendant a waiver of the right to counsel; or
 2. Communicate with a defendant who has requested the appointment of counsel, unless the appointing authority has denied the request and subsequent to the denial, the defendant:
 - a. Has been given a reasonable opportunity to retain counsel; or
 - b. Waives or has waived the opportunity to retain private counsel

D. WAIVER OF THE RIGHT TO COUNSEL

- I. A defendant may voluntarily and intelligently waive the right to counsel.
 1. A waiver obtained in violation of Section C above is presumed invalid.
 2. If a defendant wishes to waive the right to counsel for purposes of entering a guilty plea or proceeding to trial, the court shall advise the defendant of the nature of the charges against the defendant and, if the defendant is proceeding to trial, the dangers and disadvantages of self-representation.
 3. If the court determines that the waiver is voluntarily and intelligently waived, the court shall provide the defendant with a statement substantially in the following form, which, if signed by defendant, shall be filed with and become part of the record of the proceedings.

*"I have been advised this ___ day of _____, 2___, by the (name of court)
Court of my right to representation by counsel in the case pending against me. I*

have been further advised that if I am unable to afford counsel, one will be appointed for me free of charge. Understanding my right to have counsel appointed for me free of charge if I am not financially able to employ counsel, I wish to waive that right and request the court to proceed with my case without an attorney being appointed for me. I hereby waive my right to counsel.

(signature of defendant)"

4. A defendant may withdraw a waiver of the right to counsel at any time but is not entitled to repeat a proceeding previously held or waived solely on the grounds of the subsequent appointment or retention of counsel.
 - a. If the defendant withdraws a waiver, the trial court, in its discretion, may provide the appointed counsel 10 days to prepare.

E. NON-ENGLISH SPEAKING, OR DEAF, DEFENDANT(S)

- I. The Court, or the Court's designee, shall make an effort to appoint an attorney capable of communicating in a language the defendant understand.
- II. An attorney meeting the language proficiency requirements may be appointed from the language proficiency list.

Attorney Selection Process (Rotation)

A. MISDEMEANOR LIST(S)

- I. Each Denton County Statutory County Criminal Court will create and maintain its own list containing all the attorneys that meet the qualifications for appointment and that have been approved by a majority of the Denton County Statutory County Court Judges exercising criminal jurisdiction.
- II. When an appointment is to be made, the Court or its designee will select an attorney from the individual court list on a rotation basis in a fair, neutral and nondiscriminatory manner taking into account the complexity of the case and the immediacy of the requirement for representation.
- III. All attorneys appointed will be notified immediately, but in no event later than twenty-four (24) hours by delivery of the appointment in person, via email or fax.
- IV. Attorney may request to be suspended from appointment any time they will not be able to contact the defendant within 24 hours for example: long trials, vacations, medical leave, etc. by calling the Statutory County Court Administrator at (940) 349-2102 or by e-mail.

B. APPOINTMENT(S)

- I. The appointing authority will appoint the attorney whose name is first on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order.

Good Cause may include:

1. An attorney that has previously been appointed to represent an accused/defendant that has a pending misdemeanor case shall also be appointed on any subsequent misdemeanor case(s) that defendant might have prior to the completion of his initial appointment.
 2. An attorney that has previously been appointed to represent an accused/defendant shall be appointed to a current charge/case of the accused/defendant if the Court finds that there are special circumstances unique to the accused/defendant that the appointment of the same attorney would better serve the interests of justice.
 3. If an accused/defendant has a pending felony charge/case then the Court or the Court's designee, may appoint the attorney that is representing the accused/defendant on the felony charge/case.
 4. If the Court or its designee, in their sole discretion, determines that because of the facts of the case, or the special needs of the accused/defendant, or the special qualifications of the attorney, the interests of justice would be best served by appointing someone other than the next attorney on the rotating list.
- II. Once appointed, an attorney's name will be moved to the bottom of the appointment list.
 - III. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

C. JUDICIAL REMOVAL FROM CASE

- I. The judge presiding over a criminal case may remove appointed counsel upon entering a written order showing good cause for such removal, including without limitation, the following:
 1. Counsel's failure to appear at a court hearing;
 2. Counsel's failure to comply with the requirements imposed upon counsel by this plan;
 3. Current information about the defendant and the charges against the defendant indicate that another qualified attorney is more appropriate for the defendant under these rules;
 4. The appointed counsel shows good cause for being removed, such as illness, workload or scheduling difficulties;

5. The defendant shows good cause for removal of counsel, including counsel's persistent or prolonged failure to communicate with the defendant.
- II. Whenever appointed counsel is removed under this section, replacement counsel shall immediately be selected and appointed in accordance with the procedures described in this plan.

Attorney Fees and Payment

A. PAYMENT PROCESS

- I. Court appointed counsel shall be compensated for all reasonable and appropriate services rendered in representing the accused. Compensation shall be reasonable for time and effort expended and will be in accordance with a fee schedule adopted and approved by a majority of the judges hearing criminal cases in the county.
- II. No payment of attorney's fees will be made other than in accordance with the rules set forth below.
 1. An appointed attorney shall fill out and submit a fee voucher (court approved) to the court for services rendered.
 2. The trial judge presiding over the proceedings shall review the request for compensation and either approve or disapprove of the amount requested.
 - a. If a judge disapproves a request for compensation, the judge shall make written findings, stating the amount of payment that the judge approves and each reason for approving an amount different from the requested amount.
 - b. An attorney whose request for payment is disapproved or is not otherwise acted on by the 60th day after the date the request for payment is submitted may appeal the disapproval or failure to act by filing a motion with the presiding judge of this administrative judicial region.

B. PAYMENT OF EXPENSES

- I. Court appointed counsel will be reimbursed for reasonable and necessary expenses incurred, including expenses for investigation and for mental health and other experts.
- II. Unreasonable or unnecessary expenses will not be approved.
- III. No attorney shall bill the plan for incidental expenses relating to research, jail visits, conferences with clients and/or witnesses, mail and copying expenses, courier fees, driving to/from court or the detention facility or any other miscellaneous expense(s) associated with the appointed cases.

All expenses, except expert fees or investigation expenses are included in the rates approved by a majority of the Statutory County Court Judges exercising criminal jurisdiction.

- IV. Appointed Counsel may file with the trial court a pretrial ex parte confidential request for advance payment of investigative and expert expenses.
- V. Whenever possible prior court approval should be obtained before expenses are incurred for investigation and for mental health and other experts incurred on behalf of the appointed client as provided by TEX CODE CRIM. P. Article 26.05 and case law. Expenses incurred with and without prior approval shall be paid according to the procedures set forth below.
- VI. The request for expenses must state the below, as applicable:
 - 1. The type of investigation to be conducted or the type of expert to be retained;
 - 2. Specific facts that suggest the investigation will result in admissible evidence or that the services of an expert are reasonably necessary to assist in the preparation of a potential defense; and
 - 3. An itemized list of anticipated expenses for each investigation and/or each expert.
- VII. The court shall grant the request for expenses in whole or in part if the request is reasonable.

C. SUBMISSION OF EXPENSE/FEE REQUESTS

- I. All requests for payment of court-appointed attorney fees and expenses shall be submitted at the time of disposition of the case or on the day the attorney is removed from the case via a substitution of counsel signed by the Court.
- II. If your client's case has been dismissed or declined by the District Attorney's office, you must submit your request for payment within seven (7) days after you were notified of said dismissal or their intent to decline the case. In no event will payment be made after the expiration of thirty (30) days from the date of disposition, unless good cause is shown to exist.
- III. An attorney will be paid only for services performed on cases directly related to their appointment on a Denton County case.
- IV. Services performed on matters in other jurisdictions should be directed to the courts where the services are performed.

D. FEES

- I. Attorneys who withdraw as counsel in a case for any reason other than substitution of counsel required as a result of a pending felony charge against the client shall be paid a fee of not more than \$100 for the case without regard to the number of hours actually submitted.

This provision supersedes the published fee schedule.

- II. A maximum of \$100 will be paid on each case for court resets. The maximum amount does not include the day the case is ultimately disposed of via a plea or other type of disposition.

SCHEDULE FOR COURT-APPOINTED ATTORNEY FEES IS ATTACHED.

**SCHEDULE FOR COURT-APPOINTED ATTORNEY'S FEES
FOR THE COUNTY COURTS OF DENTON COUNTY, TEXAS**

Pursuant to Article 26.05 of the Code of Criminal Procedure, the Statutory County Court Judges of Denton County, Texas exercising jurisdiction in criminal cases have adopted the following schedule for court-appointed attorney's fees for the Denton County Criminal Courts.

HOURLY RATES

ACTIVITY	MINIMUM	MAXIMUM
Out of Court services	\$75/hr	\$100/hr
In Court services	\$75/hr	\$100/hr
Appeals	\$75/hr	\$100/hr
Resets (pre-plea settings)		\$100 maximum

RATES FOR MISDEMEANOR CASES

ACTIVITY	MAXIMUM
Investigation/Expert fees (<i>with prior court approval</i>)	\$500
Trial Before the Court and contested dispositions	\$750
Jury Trial	\$2,000
Appeals	\$2,000

Incidental expenses related to research, jail visits, conferences with clients and/or witnesses, mail and copying expenses, driving to/from court or the detention facility, courier fees or any other miscellaneous expense(s) associated with your appointed case will not be paid separately. All expenses, except expert fees or investigation expenses are included in the rates set out above.

Upon good cause shown, the Court may approve an amount which exceeds the above rates for compensating a court-appointed attorney based upon the time and labor required, the complexity of the case, and the experience and ability of the appointed counsel.

Approved and adopted this the 25th day of October, 2019 by the Denton County Statutory County Court Judges exercising criminal jurisdiction:

The Honorable Jim Crouch
Judge, County Criminal Court No. 1

The Honorable Susan Piel
Judge, County Criminal Court No. 2

The Honorable Forrest Beadle
Judge, County Criminal Court No. 3

The Honorable Chance Oliver
Judge, County Criminal Court No. 4

The Honorable Coby Waddill
Judge, County Criminal Court No. 5

Pursuant to Article 26.04 of the Texas Code of Criminal Procedure this plan for the appointment of counsel to represent indigent defendants in the Statutory County Courts of Denton County, Texas is hereby approved on this the 28th day of October, 2019.

The Honorable David L. Evans
Presiding Judge
Eighth Administrative Judicial Region