Forward

 The following Juvenile Indigent Defense Plan has been promulgated, adopted and implemented by the Fisher, Mitchell and Nolan Counties Juvenile Board in response to the requirements of Senate Bill #7. Since the adoption of the Interim Plan effecti9ve January 1, 2002, additional input has been provided from all Judges with juvenile law jurisdiction, the magistrates of the Judicial District, the Juvenile Probation Department, together with the attorneys who accept indigent defense appointments. All of their insight and recommendations are greatly appreciated.

**Standing Order of All Courts with Juvenile Law Jurisdiction**

**in Fisher, Mitchell and Nolan Counties of Texas**

 Effective the 1st day of January, 2010, the Fisher, Mitchell and Nolan County Juvenile Board does hereby adopt and enter the following as the Juvenile Indigent Defense Plan (6th Amended).

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 Ray Mayo, Chairman

 Fisher, Mitchell & Nolan Counties Juvenile Board

Attest:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Elsie Pierce, Secretary

\*Exemplar Signatures Only

**FISHER, MITCHELL & NOLAN COUNTY JUVENILE**

**INDIGENT DEFENSE PLAN**

(6TH Amended)

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**JUVENILE INDIGENT DEFENSE PLAN**

**Fisher, Mitchell and Nolan Counties, Texas**

**Purpose**

The purpose of the Fisher, Mitchell & Nolan Counties Juvenile Indigent Defense Plan is to implement a comprehensive program in compliance with the mandates of Senate Bill #7 and the Task Force on Indigent Defense, thereby preserving and protecting the rights of juvenile respondents from indigent families charged with engaging in delinquent conduct or otherwise engaging in conduct in need of supervision by expeditiously providing those juvenile respondents with access to competent legal representation.

**ADMINISTRATION**

The Fisher, Mitchell and Nolan County Juvenile Indigent Defense Plan shall be administered by the Fisher, Mitchell and Nolan Counties Juvenile Board.

**APPOINTMENT OF QUALIFIED COUNSEL**

**Attorney’s Certification and Request to Represent Juvenile Respondents**

All attorneys who maintain an office for the private practice of law within Fisher, Mitchell and Nolan Counties of Texas, together with all attorneys who maintain an office outside those counties and desire to be qualified for court-appointments, shall complete and file with the designated administrator for the Juvenile Board an *Attorney’s Certification and Request to Represent Indigent Defendants,* (hereinafter sometimes referred to as “Attorney’s Certification”). The *Attorney’s Certification,* designated for both adult and juvenile matters, provides counsel the ability to choose the counties and types of cases for which counsel wishes to be appointed.

The Indigent Defense Plan Administrator for the Fisher, Mitchell & Nolan County Juvenile Board is:

Judge Gary Harger

Nolan County Court at Law

100 East Third, Ste 107

Sweetwater, Texas 79556

A true and correct copy of the *Attorney’s Certification* is attached hereto as Model Form A.

**Qualification of Counsel**

To initially qualify to represent juvenile respondents within Fisher, Mitchell and Nolan Counties, counsel must:

1. Be licensed by the Supreme Court of the State of Texas;
2. Be in good standing with the State Bar of Texas
3. Have fully completed, signed and filed an *Attorney’s Certification*
4. Have engaged in the practice of law for a minimum of one year, or otherwise be supervised by, or in association with, an attorney who has been in private practice for a minimum of at least one year as of the date the *Attorney’s Certification* is filed with the Plan Administrator
5. Comply with the educational standards promulgated by the Task Force on Indigent Defense, to wit: as of the date of filing of the *Attorney’s Certification* have completed no less than six (6) hours of juvenile law continuing legal education in the preceding twelve (12) month period;
6. Maintain no less than six (6) hours continuing legal education in juvenile law each year thereafter;
7. Initiate contact, whether in person, by mail or telephone, with the juvenile respondent within twenty-four (24) hours of receiving notice of an appointment;
8. Send a writing to the appointing Court verifying the initial contact was initiated by counsel within the time provided in “7” above;
9. Interview the juvenile respondent, in person or by phone, as soon as practicable after receiving notice of the appointment, understanding that an interview within ten (10) days of receipt of the appointment will be deemed presumptively reasonable; and
10. Timely attend all pretrials and hearings, unless otherwise granted a “pass” or “continuance” in advance by the appropriate Court.

**Creation of Court’s Appointment List(s)**

Each Court with juvenile law jurisdiction shall appoint counsel from an appointment list using a system of rotation. The list shall be comprised of those qualified attorneys who properly request to be considered for appointment and who meet or exceed the objective qualifications set forth above. The procedures must be consistent with Art. 1.051, 15.17, 26.05 and 26.052 of the Texas Code of Criminal Procedure.

Recognizing that every counsel residing within the 32nd Judicial District is required to submit an *Attorney’s Certification* under the provisions of the 32nd Judicial District Indigent Defense Plan, a space will be provided within that certification for counsel to designate whether or not counsel desires to undertake the representation of juvenile respondents whose parents and/or legal guardians qualify as indigent.

Each Court shall appoint attorneys from among the next five names on its appointment list(s) in the order in which the attorney’s names appear on that list, unless the Court makes a finding of good cause, in writing reflected on the record for appointment of any attorney out of order. 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.

If the Court finds it necessary to deviate from the rotation, deviation is presumed to be for “good cause” if the appointment was made to:

1. Appoint the same counsel as appointed in another pending case involving the same juvenile respondent;
2. Appoint the same counsel in a probation revocation or modification matter that represented the juvenile respondent at the time of the initial adjudication or prior proceeding in the underlying case;
3. Provide a non-English speaking juvenile respondent with counsel who is capable of communicating in a language understood by the juvenile respondent; or
4. Provide immediate representation under exigent circumstances.

**Removal from Court’s Appointment List**

An attorney who otherwise qualifies for appointment may voluntarily request removal from any or all of the Courts’ rotating appointment lists at any time. If such voluntary removal is requested, the attorney shall remain responsible for all cases for which the attorney was appointed prior to the request, unless otherwise released by order of the Court.

An attorney may be involuntarily removed from a Court’s appointment list if the attorney:

1. Has twice or more failed to contact or interview clients in a timely manner required by Article 26.04(j)(1), Code of Criminal Procedure;
2. Has submitted a claim for services not performed as specified in Article 26.05(e), Code of Criminal Procedure;
3. Fails to maintain compliance with each of the appointment list guidelines;
4. Has been found by a court to have provided ineffective assistance of counsel;
5. Has violated a rule of professional responsibility;
6. Has been convicted of or received a deferred adjudication for any offense, other than an offense punishable by a fine only;
7. Is under indictment or being formally charged with an offense, other than an offense punishable by a fine only;
8. Has intentionally misrepresented statements on the application for the appointment list.

An attorney may also be removed from the appointment list for another stated good cause.

Referral. If a judge believes that an attorney has violated any of the provisions listed in the paragraph above, the judge may refer an attorney to the Fisher, Mitchell and Nolan County Juvenile Board for removal from the appointment list. The referral must be in writing and shall clearly state the grounds that form the basis of the referral. No disciplinary action with respect to the attorney being retained or removed from the appointment list may be made without such a referral. A copy of the “*Judge’s Referral to the Juvenile Board Regarding Appointed Counsel* is attached as Model Form B.

Notification/Hearing. Upon receiving an attorney referral, the Juvenile Board shall notify the attorney in writing of the referral and inform the attorney of the grounds that form the basis of the referral. The notice shall also inform the attorney of the time and place the Juvenile Board will meet to discuss the referral and give the attorney an opportunity to respond to the referral in writing.

Action. After the Juvenile Board meets, the Juvenile Board shall determine whether the attorney should:

1. Remain on the appointment list at the same level;
2. Be restricted to appointments for indigent defendants charged with less serious offenses;
3. Be removed from the appointment list altogether, and/or
4. Be provisionally suspended pending the completion of additional continuing legal education.

The attorney may be sanctioned as provided above by a majority vote of the Juvenile Board present, provided the quorum requirement is satisfied. The Juvenile Board may also require the attorney to take other rehabilitative measures as a condition of probation or reapplication. An order of removal should state in the order the earliest date at which the attorney may apply for reinstatement. An attorney who was removed from an appointment list under “Grounds for Removal” numbers 4, 5, 6 or 7, shall be immediately reinstated upon providing proof that the charges were dismissed, unsubstantiated by a grievance panel or that the attorney was acquitted, unless other grounds for removal exist against the attorney that would prohibit reinstatement.

The decision of the Juvenile Board is final and may not be appealed.

**THE INDIGENT APPLICATION PROCESS**

**Application for Determination of Indigence**

The juvenile law courts of Fisher, Mitchell and Nolan Counties shall provide the Fisher, Mitchell and Nolan County Juvenile Probation Department, together with their respective County Clerks, copies of the *Application for Court-Appointed Attorney* (hereinafter referred to as *“Application”)* to be timely provided, upon request, to the parent or legal guardian of any juvenile respondent who stands charged with an offense allegedly committed within the State of Texas for which the juvenile respondent, if convicted, could be adjudicated to have engaged in delinquent conduct or to be a child in need of supervision, as those terms are defined within the Texas Family Code.

A true and correct copy of the *Application* is attached hereto as Model Form C.

**Request for Application for Court Appointed Attorney**

Upon request by the parent and/or legal guardian of a juvenile respondent, the Juvenile Department or the Clerk of the Juvenile Court, or their respective officers and/or deputies, shall provide a copy of the *Application* to the requesting party as soon as practicable upon request, but in no event more than four (4) hours following such request. At the time the *Application* is provided, the officer and/or deputy providing the *Application* shall document on the front of the transmittal page; (a) the date and time of the request and (b) the date and time the *Application* was provided. The Juvenile Department personnel, the County Clerk or their respective deputies shall provide such reasonable assistance as may be necessary to the juvenile respondent’s parent/legal guardian in completing the *Application*.

Upon return of the completed *Application*, the officer or deputy shall document on the face of the transmittal page; (a) the date and time the *Application* was returned and (b) the date and time the *Application* was transmitted/delivered to the appropriate Court for consideration.

A true and correct copy of the Transmittal Page is attached hereto as Model Form D.

**Appointment of Counsel for Purposes of Detention Hearings Only**

Prior to the commencement of the hearing, the Court shall inform the parties of the child’s right to counsel and to appointed if counsel, if the parents/guardians are determined to be indigent.

If parent, guardian or a court-appointed guardian ad litem for the child is present for the detention hearing; The Texas Family Code §54.01, provides that so long as a parent, guardian or guardian ad litem is present for the detention hearing, counsel need not be appointed for the detention hearing. However, if the juvenile is not represented by an attorney at the initial detention hearing and the court orders the juvenile to be detained, then the Court **shall** immediately appoint an attorney to represent the child, if the juvenile respondent’s parent(s) or legal guardian(s) are unable to employ counsel. Counsel shall be appointed according to the rotation appointment procedures provided herein.

If parent or guardian ad litem is not present for the hearing. If no parent or guardian is present, the Court **shall** appoint counsel or a guardian ad litem for the child before the detention hearing may be heard by the Court.

If counsel is to be appointed for the detention hearing. Due to the expedited nature of a detention hearing, prior to the Court’s appointment of counsel, the Court shall consult the rotation appointment list and contact each attorney in sequence to ensure that counsel will be available on the date and at the time scheduled for the detention hearing. If Counsel is unavailable for hearing at the date and time scheduled, the Court shall deem good cause to depart from the rotation and select the next attorney available by rotation for the date and time of the scheduled hearing.

**Safeguard for Appointment of Counsel if Parent/Legal Guardian**

**Fails to Retain Counsel or Make Application for Court-Appointed Counsel**

If a petition alleging delinquent conduct or conduct in need of supervision has been filed, the parent/legal guardian of the child has not retained counsel, and the parent/legal guardian of the child has failed and/or refused to complete an *Application* seeking appointment of counsel for the juvenile respondent within a reasonable time after being advised by the Juvenile Department to make *Application*, then the Juvenile Department shall forward an *Application* to the Court with jurisdiction of the juvenile, indicating the parent/legal guardian’s failure to request.

Upon receipt of the  *Application*, the Court shall immediately enter an order appointing counsel to represent the juvenile respondent and thereafter order the parent/legal guardian to appear and complete an *Application*,

**Transmittal Requirements for Completed Application**

Upon receipt of a completed *Application* from the parent/legal guardian of the juvenile respondent, the Juvenile Department, Clerk of the Court or their designated officers or deputies, shall verify that the *Application* has been property completed and executed, thereafter completing the front of the transmittal page, designating:

1. The date and time the completed *Application* was returned by the parent/legal guardian to the Juvenile Department/Clerk’s Office.
2. The name of the individual to whom the *Application* was returned;
3. The charges pending against the juvenile respondent; and
4. The date and time the *Application* was forwarded to the Court with jurisdiction over the child.

The completed *Application* must be transmitted and/or delivered to the appropriate Court within twenty-four (24) hours of the receipt by the Juvenile Department, Clerk of the Court, or their designated officers or deputies. Should the completed *Application* be received over a weekend or official Court holiday, the completed *Application* shall be transmitted and/or delivered to the Court on the first business day immediately thereafter. Delivery of the completed *Application* to the Court may be by hand delivery to the Court’s chambers, by fax, or, in the event charges are pending outside of the county in which the *Application* is returned, by first class mail to the attention of the appropriate Court. The Court shall designate on the front transmittal page the date and time the *Application* was received by the Court.

From the date the *Application* is received by the Court, the Court has three (3) business days with which to review the *Application,* make its determination of indigence and thereafter grant or deny the request.

**Determination of Indigence**

The parent or legal guardian of a juvenile respondent accused of engaging in delinquent conduct or conduct in need of supervision shall presumed to be indigent, i.e. “a person who is not financially able to employ counsel,” Tex. Code of Crim. Proc. Art. 1.051(b), if any of the following conditions or factors are present:

1. The parent/legal guardian or his/her dependent(s) have been determined to be eligible to receive public assistance, including but not limited to, food stamps, Medicaid, Temporary Assistance to Needy Families (TANF), Supplemental Security Income, public or subsidized housing, or civil legal services.
2. The household income of the parent/legal guardian and any dependents is at or below 150% of the poverty guidelines published annually by the United States Department of Commerce.
3. The parent/legal guardian is currently serving a sentence in a correctional institution or facility, is currently residing in a public mental health facility, or is the subject of a proceeding in which admission or commitment to such a mental health facility is sought, or
4. The parent/legal guardian previously has been determined to be indigent and entitled to court-appointed counsel in a currently pending or related court proceeding.

When none of these presumptions applies, a juvenile respondent shall nevertheless be eligible for assignment of counsel if the parent/legal guardian is unable to employ private counsel without substantial financial hardship to the parent/legal guardian’s household or to the parent/legal guardian’s dependents. In determining financial eligibility for appointed counsel under this provision, the appointing authority shall consider the parent/legal guardian’s income, assets, and liabilities, as set forth in Article 26.05(m) of the Texas Code of Criminal Procedure; the seriousness and complexity of each charged offense; the anticipated costs of representation for the offense(s) charged; the social and economic conditions of the parent/legal guardian and any dependents; and any other extenuating circumstances affecting the ability of the parent/legal guardian to retain private counsel for the juvenile respondent.

**Reimbursement Order**

Pursuant to §51.10 of the Texas Family Code, if the Court determines that the applicant has financial resources that enable the applicant to offset in part or in whole the costs of the legal service provided, including any expenses and costs, the Court may order the applicant to pay the amount that the Court finds the applicant is able to pay.

A true and correct copy of the *Reimbursement Order* and the *Explanation of Reimbursement Order* is attached as Model Form E.

**Notification of Appointment of Counsel**

Upon the Court’s evaluation of the *Application,* the Court shall immediately forward a copy of the *Indigence Determination and Order Granting/Denying Application for Court-Appointed Counsel* (hereinafter referred to as “*Indigence Determination”*) to:

1. The juvenile respondent,
2. The applicant
3. The Juvenile Department
4. The prosecutor’s office, and, if counsel was appointed,
5. The appointed counsel.

If providing the “Indigence Determination” to appointed counsel, the Court shall include the following:

1. Whether or not the juvenile respondent is in detention,
2. If in detention, the name and contact information for the detention facility,
3. If not in detention, the permanent mailing address of the juvenile respondent’s parent/legal guardian,
4. The name and relationship of the parent/legal guardian of the juvenile and all contact information provided in the *Application*, including the mailing address of the parent/legal guardian, if different from that of the juvenile.

A true and correct copy of the *Indigence Determination* is attached as Model Form F.

**Attorney’s Obligation Upon Receipt of Notice of Appointment**

Upon written notification of appointment to a juvenile respondent, appointed counsel shall:

1. Make every reasonable effort to contact the juvenile respondent not later than the end of the first working day after the date on which the attorney receives written notice of appointment.
2. Provide written notice to the Court documenting the date and manner of the first substantive interview with the accused.
3. Conduct an interview with the juvenile respondent, whether by phone or in person, as soon as practicable after the attorney is appointed.
4. Represent the juvenile respondent until charges are adjudicated without appeal, dismissed, the juvenile respondent is acquitted, appeals are exhausted, or the attorney is relieved of his duties by the court or replaced by other counsel.

Counsel’s initial interview with the juvenile respondent shall be presumed timely if conducted within ten (10) days of the appointment, however such presumption may not be sufficient should the matters pertaining to the juvenile respondent be expedited by the Court.

**COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Compensation for the time expended in the representation of juvenile respondents shall be as follows:

**Probation/Indeterminate Sentencing Cases**

The base compensation for attorney’s time, attorney’s staff time and expenses per case shall be as follows:

1. Dismissal
	1. Pre-petition $100.00
	2. Post-petition $200.00
2. Pretrial Diversion $250.00
3. Plea/Placement $400.00

Compensation for attorney and staff time incurred in excess of the base compensation shall be compensated as follows:

1. Attorney compensation shall be at the rate of not less than seventy-five dollars ($75.00) per hour for actual time expended by counsel, and
2. Staff time shall be compensated at the rate of not less than twenty-five dollars ($25.00) per hour for actual time expended by counsel’s staff.

Expenses shall be reimbursed as provided below.

**Determinate Sentencing Cases**

As all determinate sentencing cases would otherwise be heard in the District Court, compensation will be handled in the same manner and at the same rates as published in the 32nd Judicial District Indigent Defense Plan (6th Amended).

**Reimbursement for Expenses**

Collect Telephone Calls: Reasonable expenses incurred for accepting collect telephone calls originating from a detention facility, shall be reimbursed without prior Court approval. Accepting more than one (1) call per day, per juvenile respondent shall be presumed unreasonable, however, counsel may request payment and provide an explanation to overcome the presumption.

Mileage and Travel Time: The Court shall not reimburse counsel for mileage or travel time incurred by counsel in traveling to and from counsel’s office to any location in the District for the purposes of representing a juvenile respondent. Through the Attorney’s Certification, counsel has been afforded the opportunity to accept or reject appointments from any Court within the District. Counsel has, by requesting to be included on a specific Court’s appointment list, agreed to represent the juvenile respondent in the county in which the case is pending.

The Courts recognize that due to the unavailability of juvenile detention space within the District, it may become necessary to transfer and detain a juvenile respondent in a detention facility outside the Judicial District. If counsel needs to consult with the juvenile respondent in person, prior to incurring travel expenses, counsel shall contact the Fisher, Mitchell and Nolan Counties Juvenile Chief and request that the juvenile respondent be returned to the county where the charges are pending to consult with counsel as soon as practicable. If, and only if, the Juvenile Department is unable to return the juvenile respondent to the county timely, the Court shall reimburse counsel for travel time only, not mileage, incurred.

Expenses Without Prior Court Approval: Counsel may include within the final request for payment, a bill for reimbursement of expenses incurred. Reimbursement expenses for which no prior court approval was granted will be subject to review by the Court for reasonableness. Court ordered reimbursement, if any, will be in addition to the total compensation referred to as attorney compensation above. Counsel will be responsible for payment of expenses incurred without prior court approval, and must thereafter submit a request for reimbursement.

Expenses With Prior Court Approval: Reimbursement for expenses for which prior Court approval was granted may, with proper documentation, (1) be paid directly to the service provider by the Court, (2) as interim reimbursement to counsel or (3) as part of the final compensation order. Motion and hearing to obtain prior court approval may be held in open court or ex parte, as justice would require. Court ordered reimbursement, if any, will be in addition to the local compensation referred to as attorney compensation.

**Attorney’s Fees and Expense Affidavit**

The Court **shall not** enter an order for compensation or reimbursement of expenses unless a proper, detailed billing statement, time sheet or motion for payment in writing, signed by counsel, is presented for the Court’s consideration. Two separate orders of compensation have been adopted by the Courts, which are more specifically described as follows:

1. Base Compensation Order:
	1. The order for base compensation is incorporated at the bottom of the *Court-Appointed Counsel’s Request for Minimum/Base Compensation* to be entered only if counsel has completed and signed the request and submitted it to the Court as part of the plea papers in the case.

A true and correct copy of the *Court-Appointed Counsel’s Request for Minimum/Base Compensation* is attached as Model Form G.

* 1. For the purposes of this plan, “Base Compensation” is an amount intended to be a presumptive minimum amount to which court-appointed counsel will be entitled for the legal services provided. In the event counsel has expended time and incurred expenses in excess of the base compensation schedule, Counsel may submit an itemized statement of time and expenses to the Court for payment as set forth in (2) below.
	2. Each Court will encourage their respective prosecutor’s office to incorporate this form as part of the standard plea paperwork provided to counsel on the date of hearing with all other documents prepared by the prosecutor’s office.
1. Payment Request Which Exceeds the Base Compensation:
	1. Each attorney seeking compensation in excess of the base schedule shall prepare and file with the Court a statement detailing the attorney’s time, the support staff time and any expenses incurred in the representation of the juvenile respondent, signed by counsel. For reporting purposes, the attorney’s time shall specifically differentiate between “in court” and “out-of-court” time incurred. It is not required that the statement be in the form of a formal “Motion for Payment” A time sheet or other writing, signed by counsel, which provides the required information will be deemed sufficient.

1. Request for Compensation Approved: If the trial court approves a request as presented, the Judge shall enter an *Order of Compensation* designating that the attorney’s fees requested should be paid in full.
2. Request for Compensation Disapproved. If the trial court disapproves the request for compensation as presented, the Judge shall enter an *Order of Compensation* In the amount approved by the Court, and thereon make written findings stating the reasons for approving an amount different from the amount requested. If the Court has not paid counsel the full amount requested, the Court shall tender a copy of the *Order of Compensation* to the attorney of record in the case, for his/her review.
3. Interim Requests for Compensation. The Task Force on Indigent Defense discourages the payment of interim expenses for compensation, as it inherently distorts the compensation-per-case ratios which they monitor. Therefore, absent a protracted period of representation, Interim Requests for Compensation will not be granted.

A true and correct copy of the *Order of Compensation* is attached hereto as Model Form H.

**Motion/Request for Reconsideration of Compensation Order**

If Counsel does not believe that the Compensation Order entered for payment for the attorney’s time, staff time and reimbursement for expenses incurred was consistent with the guidelines for compensation set forth herein, the attorney of record may file a motion/request for reconsideration of the *Request for Compensation* with the trial Court, providing such other documentation, together with any verified affidavit by Counsel, to supplement the original *Request for Payment.*

The Court shall review any additional documentation provided and render a written order to the motion/request within five (5) business days from the date the it was received by the Court. A failure by the Court to review and render a written order within the five (5) business days as provided herein, shall be deemed a denial of the motion/request for reconsideration.

**Appeal of Compensation Order**

If the request for reconsideration is rendered or deemed denied, Counsel may file an appeal with the Presiding Judge of this Administrative Region, following the procedures outlined in the *Rules for the Appeal of a Trial Court’s Disapproval of Requested Court-Appointed Attorney’s Fee for the Seventh Administrative Judicial Region of Texas*.

A true and correct copy of the *Rules* is a five page document which is attached hereto as Model Form I.

As of the date of the approval of this plan, the mailing address of the Presiding Judge of the Seventh Administrative Region is as follows:

Honorable Judge Dean Rucker

Seventh Administrative Region

200 West Wall, Suite 200

Midland, Texas 79701

Administrative Judge’s Determination Final: The Presiding Administrative Judge shall review the disapproval and determine the appropriate amount of payment. The decision of the Regional Presiding Administrative Judge is final. The Presiding Judge may conduct a hearing. The Commissioners' Court shall pay to the appointed counsel the amount that is approved by the Presiding Judge, if any, not later than the 45th day after the date an order of compensation is entered by the Administrative Judge.

**TASK FORCE REPORTING REQUIREMENTS**

**Retaining Indigent Defense Records and**

**Reporting to the Task Force on Indigent Defense**

At the time the Court receives an *Application to Determine Indigence,* the Court shall verify that all of the transmittal information has been properly completed, along with the application itself. When the case is fully and finally resolved and the Court has received the final billing statement from counsel, the Court shall verify that the attorney’s request includes time designations for both in-court and out-of-court services provided, together with a summary of expenses, if any, incurred by counsel in his/her representation of the indigent juvenile respondent. Once the Court has verified that all required information has been provided and the compensation order has been entered, the Court shall direct the Clerk of the Court to tender a copy of the compensation order to the County Auditor.

**Auditor's Responsibilities**

It shall be the responsibility of the Auditor of each County to receive and maintain all of the tracking sheet information in such a manner to facilitate the prompt and accurate filing of required information to the Task Force on Indigent Defense. The reporting of this information to the Task Force shall be on the forms and in a manner promulgated by the Task Force, consistent with the mandate of Senate Bill No. 7.

EFFECTIVE JANUARY 1, 2010.

MODEL FORMS

FORM A

**ATTORNEY'S CERTIFICATION AND**

**REQUEST TO REPRESENT INDIGENT DEFENDANTS**

**Please complete this entire page:**

Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Business Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City: \_\_\_\_\_\_\_\_\_\_\_\_\_ Zip: \_\_\_\_

Business Phone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Cell Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_ Fax: \_\_\_\_\_\_\_\_\_\_\_\_

E-Mail Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Licensure & Continuing Legal Education:**

Date licensed to practice law in Texas: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Bar Card # \_\_\_\_\_\_\_\_\_

Are you fluent in any language other than English? Yes / No /

Which language(s)? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Have you taken an Indigent Defense Certification Seminar? Yes / No /

How many CLE hours in criminal law have you attended in the past 2 yrs? \_\_\_\_\_\_\_\_

How many CLE hours in juvenile law have you attended in the past 2 yrs? \_\_\_\_\_\_\_\_

Have you ever been sanctioned or reprimanded by the State Bar? Yes / No /

If yes, explain: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Experience – Juvenile/Criminal Law:**

Number of juvenile/criminal cases for which you have been hired as counsel in the preceding 2 years?

 \_\_\_ 0 - 25 \_\_\_ 26 - 50 \_\_\_ 51 - 99 \_\_\_ 100+

Number of juvenile/criminal cases for which you have been appointed as counsel in the preceding 2 yrs?

 \_\_\_ 0 - 25 \_\_\_ 26 - 50 \_\_\_ 51 - 99 \_\_\_ 100+

How many competency to stand trial hearings have you handled in the preceding 5 years?

 \_\_\_ 0 \_\_\_ 1 - 3 \_\_\_ 4 - 6 \_\_\_ 7 - 9 \_\_\_ 10+

How many juvenile/criminal appeals have you written, researched and/or filed in the preceding 5 years?

 \_\_\_ 0 \_\_\_ 1 - 3 \_\_\_ 4 - 6 \_\_\_ 7+

**Request for Appointment as Counsel for Indigent Defendants:**

Based on the 32nd Judicial District qualifications, I certify that I am qualified to receive and request to be appointed on the following:

Nolan County: Fisher County: Mitchell County:

\_\_\_ felony \_\_\_ felony \_\_\_ felony

\_\_\_ misdemeanor \_\_\_ misdemeanor \_\_\_ misdemeanor

\_\_\_ juvenile \_\_\_ juvenile \_\_\_ juvenile

\_\_\_ appellate \_\_\_ appellate \_\_\_ appellate

\_\_\_ civil contempt \_\_\_ civil contempt \_\_\_ civil contempt

By my signature, I attest that the information I have provided in this application is true and accurate, in substance and in fact.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Applicant Date

FORM B

**Judge’s Referral to the Juvenile Board Regarding Appointed Counsel**

 Counsel: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

As Judge of a Court with juvenile court jurisdiction, it has come to my attention that the above-identified

counsel may have failed to comply with the standards and/or qualifications for attorneys required by

the Fisher, Mitchell and Nolan County Juvenile Indigent Defense Plan and the Task Force on Indigent

Defense. The conduct, or allegation thereof, complained of is identified as follows:

\_\_\_ 1. Has twice or more failed to contact or interview clients in a timely manner as required by Article 26.04(j)(1), Code of Criminal Procedure;

\_\_\_ 2. Has submitted a claim for legal services not performed as specified in Article 26.05(e), Code of Criminal Procedure;

\_\_\_ 3. Has failed to maintain compliance with each of the appointment list guidelines;

\_\_\_ 4. Has been found by a court to have provided ineffective assistance of counsel;

\_\_\_ 5. Has violated a rule of professional responsibility;

\_\_\_ 6. has been convicted of or received a deferred adjudication for any offense, other than an offense punishable by a fine only;

\_\_\_ 7. Is under indictment or being formally charged with an offense, other than an offense punishable by a fine only;

\_\_\_ 8. Has intentionally misrepresented statements on the application for the appointment list.

\_\_\_ 9. Other, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attached is a summary outlining with more particularity the conduct alleged, the source of the allegation, the style of the case, and the steps taken by the referring Judge, if any, to authenticate or verify the allegation.

Signed this \_\_\_ day of \_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Referring Judge**FORM C

**CAUSE# \_\_\_\_\_\_\_\_\_\_**

**APPLICATION FOR COURT APPOINTED ATTORNEY**

**Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Time: \_\_\_\_\_\_\_\_\_ \_\_.m. Juvenile Respondent \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Every question on this form must be answered. Failure to do so could result in the application not being considered. If you need assistance, notify the person in charge of taking this application. You must answer each question truthfully; failure to do so could subject you to additional criminal charges.**

**1. Last Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ First Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Middle \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**2. Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Number and Street City State Phone**

**3. Married\_\_\_\_Single\_\_\_\_Divorced\_\_\_\_\_Separated\_\_\_\_Social Security # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date of Birth\_\_\_\_\_\_\_\_\_\_\_\_**

**4. Name of Spouse\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**5. Number of Children under 18 living with you? \_\_\_\_\_\_\_\_\_\_Ages\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**6. Child Support: Are you paying?\_\_\_\_\_\_\_\_\_Receiving?\_\_\_\_\_\_\_\_ If so, how much per month? $\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**7. Do you receive any public assistance? \_\_\_\_\_\_\_\_ If yes, amount $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Agency\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**8. Are you employed?\_\_\_\_\_\_\_\_\_ If Yes, Name of Employer\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**9. Your Wages $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_ Per \_\_\_\_\_\_\_\_\_\_\_\_ Spouse income, if available $ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Per \_\_\_\_\_\_\_\_\_\_\_\_**

**10. Are you receiving income or benefits from any other source? Yes\_\_\_\_\_No\_\_\_\_\_\_ If yes, from whom received,**

 **frequency of payment, and date payments end \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**11. Names of employers for the last two years and monthly salary for each. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**12. Closest Relative \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

|  |  |  |  |
| --- | --- | --- | --- |
| **MONTHLY EXPENSES/PAYMENTS** | **TOTAL OF DEBITSOWED** |  | **ASSETS** |
| Rent/Mortgage  |  |  | House Loan |  |  | House Value |  |
| Car payment |  |  | Car Loan |  |  | Car Value |  |
| Credit Cards |  |  | Credit Cards |  |  | Cash |  |
| Loan Payment |  |  | Loans |  |  | Bank Account |  |
| Medical fees |  |  | Medical |  |  | Stocks |  |
| Child Care |  |  | Taxes |  |  | Jewelry |  |
| Child Support |  |  | IRS |  |  | Furniture |  |
| Insurance |  |  | other |  |  | Other |  |
| Utilities |  |  | **TOTAL** |  |  | **TOTAL** |  |
| Food& clothing |  |  |  |  |  |  |
| IRS/Other |  |
| **TOTAL** |  |
| **INCOME** |  |
| **Difference** |  |

**Affidavit of Indigent Requesting Appointment of Attorney**

**“I am the parent/legal guardian of a juvenile respondent who has been charged with an offense in this Court. I have been advised that the juvenile respondent must be represented by Counsel in this case. I certify that I do not have the ability to employ counsel of my own choosing and I hereby request the Court to appoint Counsel for the juvenile respondent.”**

**Above is a full and complete disclosure of my debts and obligations, together with other personal information, for the Court to consider in the determining whether or not I qualify for Court-Appointed Counsel. I understand that all of the information I am providing is deemed to be Court documents.**

**“Under Penalty of perjury,** I declare that all of the information I am providing is true and correct in substance in fact”.

Signed this \_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Parent/Guardian of Juvenile Respondent

FORM D

**Juvenile Transmittal Page**

(Cover Page for Application to Determine Indigence and Request for Court-Appointed Counsel)

**Juvenile Respondent's Full Name:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Incarceration Status:**

 \_\_\_\_\_ Released If Released, to what address?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_ Detained If Detained, where?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 If detained, when/where is the detention hearing? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Prior Adjudications:**

 \_\_\_\_\_ Yes \_\_\_\_\_ No If Yes, how many prior adjudications? \_\_\_\_\_\_\_\_\_\_\_

**Pending Delinquent Conduct Allegation: Class/Degree:** **County:**

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_ \_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_ \_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_ \_\_\_\_\_\_\_

**Does Juvenile Have Charges Pending Out of District?**: Yes / No

If yes, does an application for need to be transmitted to another Jurisdiction? Yes / No

**Date and Time Application was:**

1. Requested by Parent \_\_\_\_\_/\_\_\_\_/20\_\_ \_\_\_\_\_\_\_\_\_\_ \_\_.m. By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. Provided to Parent: \_\_\_\_\_/\_\_\_\_/20\_\_ \_\_\_\_\_\_\_\_\_\_ \_\_.m. By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. Returned from Parent: \_\_\_\_\_/\_\_\_\_/20\_\_ \_\_\_\_\_\_\_\_\_\_ \_\_.m. By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. Transmitted to the Court: \_\_\_\_\_/\_\_\_\_/20\_\_ \_\_\_\_\_\_\_\_\_\_ \_\_.m. By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5. Received by the Court: \_\_\_\_\_/\_\_\_\_/20\_\_ \_\_\_\_\_\_\_\_\_\_ \_\_.m. By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Transmitted/Delivered to the:**

\_\_\_\_ Fisher County Court \_\_\_\_ Mitchell County Court \_\_\_\_\_ Nolan Co. Ct. at Law

**Transmitted/Delivered via:**

\_\_\_ Hand delivery \_\_\_ Mail \_\_\_Fax \_\_\_Other,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

FORM E

**CAUSE NO. \_\_\_\_\_\_\_**

**IN THE INTEREST OF § IN THE COUNTY COURT \_\_\_\_\_\_\_\_**

 **§**

 **§ OF \_\_\_\_\_ COUNTY, TEXAS**

 **§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ § SITTING AS JUVENILE COURT**

# REIMBURSEMENT ORDER

 On this day, came on for consideration the parent and/or legal guardian's "Application for Determination of Indigence and Request for Court-Appointed Counsel - Juvenile" in the above-entitled and numbered cause. The Applicant personally appeared and the State of Texas was present through her County Attorney. After considering the evidence and any argument, the Court is of the opinion and finds that the Juvenile Respondent was entitled to court-appointed representation, and that the Applicant has some financial ability to reimburse the general fund of \_\_\_\_\_ County for expenditures that it will make for payment to court-appointed attorney's fees and expenses in this case, and that the Applicant is able to pay reimbursement each month for that purpose.

Accordingly, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Applicant herein, is **ORDERED** to pay \_\_\_\_\_ County the sum of **$\_\_\_\_\_\_\_\_\_\_\_\_ per month** between the 1st and 15th day of each month beginning the month next following the month in which this order is signed, at the office of the County Clerk of \_\_\_\_\_ County, Texas; until the total sum of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DOLLARS ($\_\_\_\_\_\_\_) or the actual amount attorney's fees incurred as a result of court-appointed representation is satisfied in full, whichever is greater. The total amount due as of the date of this order is $\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 In the event the Applicant fails to make any payment required by this order, the Applicant is **ORDERED** to be personally present in the \_\_\_\_\_ County Court Courtroom at 4:00 p.m. on the third Wednesday of the month in which payment is not made as ordered; or, if Wednesday is a holiday, on the first day following that is not.. In the event the juvenile respondent does not so appear, capias is subject to issue for the juvenile respondent's arrest.

 Signed this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Judge Presiding

**EXPLANATION OF REIMBURSEMENT ORDER**

1. You have been ordered to reimburse \_\_\_\_\_ County for all or part of the cost for your court-appointed attorney.
2. You are to make certain payments every month. Your first payment is due between the 1st and 15th day of the month following the month in which the Judge ordered that you make monthly payments. A payment in the same amount is due every month afterwards until the entire debt is paid.
3. If you fail to make a payment, you must return to Court at \_\_\_\_\_\_\_o'clock \_\_.m., the \_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_ of that month; or if that day is a holiday, the first day following that is not a holiday. If you fail to do so, your bond may be deemed to be insufficient and a warrant would then issue for your arrest.
4. Payments are to be made IN CASH, MONEY ORDER or CASHIER'S CHECK in person at the \_\_\_\_\_ County Courthouse. Your payment may be made by mail by MONEY ORDER OR CASHIER'S CHECK ONLY, payable to "\_\_\_\_\_ County" and mailed to:

\_\_\_\_\_ County Clerk

\_\_\_\_\_ County Courthouse

\_\_\_\_\_\_\_\_\_\_\_\_\_ Street, Suite \_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_, Texas 79\_\_\_\_\_\_

1. **BE SURE YOUR MONEY ORDER OR CASHIER'S CHECK HAS YOUR NAME AND THE CAUSE NUMBER OF YOUR CASE WRITTEN ON IT**. It is advisable to pay in person and preserve all receipts. If you mail in your payment, you WILL NOT receive a receipt by return mail. Therefore, be sure to keep your copy of the money order or cashier's check.
2. **PERSONAL CHECKS ARE NOT ACCEPTED**.
3. The total amount of debt will not be known until the attorney is paid. Once the full amount of your debt is known, the Clerk's Office can tell you how much it is. You may always pay off the entire debt at any time.
4. Once the debt is completely paid, the Clerk's Office can also help cancel the payment order. The burden is on you to find out and request cancellation from the Clerk's Office. You are required to pay even if your case is dismissed or you are acquitted.

The Clerk's office can answer questions about your account.

FORM F

**CAUSE NO. \_\_\_\_\_\_\_\_**

**IN THE INTEREST OF § IN THE COUNTY COURT \_\_\_\_\_\_\_\_**

 **§**

 **§ OF \_\_\_\_\_ COUNTY, TEXAS**

 **§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ § SITTING AS JUVENILE COURT**

**Indigence Determination and Order Granting/Denying**

**Application for Court-Appointed Counsel**

 On this date came to be considered the Application for Court-Appointed Attorney in the above-entitled and numbered cause. Having reviewed the Application, the Court finds:

\_\_\_ The Juvenile Respondent's Parent/Legal Guardian does not meet the indigence standards of this Court and, therefore, the Request for Court-Appointed Counsel is **DENIED**.

\_\_\_ The Juvenile Respondent's Parent/Legal Guardian is determined to meet the indigence standards of this Court, or in the alternative, the Court finds that the interest of justice requires that counsel be appointed to represent the Juvenile Respondent in this matter, and, therefore, the Request for Court-Appointed Counsel is **GRANTED**.

**IT IS, THEREFORE, ORDERED** that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a licensed attorney, who has previously been certified to represent Juvenile Respondents under the provisions of the Indigent Defense Plan approved by the 32nd Judicial District Juvenile Board, be and hereby is appointed as attorney of record for the Juvenile Respondent in the above-entitled and numbered cause.

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Presiding Judge

Juvenile Respondent's Contact Information:

 Address:: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ In Detention? \_\_\_ yes \_\_\_ no

 City/State: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Tx If yes, where? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Parents/Legal Guardians Parents/Legal Guardians

FORM G

**CAUSE NO. \_\_\_\_\_\_\_\_**

**IN THE INTEREST OF § IN THE COUNTY COURT \_\_\_\_\_\_**

 **§**

 **§ OF \_\_\_\_\_ COUNTY, TEXAS**

 **§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ § SITTING AS JUVENILE COURT**

**Court-Appointed Counsel's Request for Base Compensation**

 On this day, counsel certifies that the counsel's representation of the juvenile respondent in this matter has now concluded. Counsel further represents that compensation for the actual amount of attorney's fees and expenses incurred to represent the juvenile respondent will not exceed the base compensation provided for in the 32nd Judicial District Juvenile Indigent Defense Plan. Attorney's time and expenses incurred related to this case are based on the following:

 Attorney's Time:

 In Court ……….. \_\_\_\_\_ hrs.

 Out of Court …... \_\_\_\_\_ hrs.

 Expenses: $\_\_\_\_\_\_\_\_

 Respectfully submitted,

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Attorney's Signature

**Compensation Order**

The Court finds that the request for payment is proper and that the designated amount is reasonable and necessary compensation for the services provided**. IT IS, THEREFORE, ORDERED** that the Court-appointed counsel named below, be and shall be paid from the General Fund of \_\_\_\_\_\_ County, Texas as follows:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Attorney's Name) (Amount)

Signed this the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Presiding Judge

FORM H

**CAUSE NO. \_\_\_\_\_\_\_\_**

**IN THE INTEREST OF § IN THE COUNTY COURT \_\_\_\_\_\_**

 **§ § OF \_\_\_\_\_ COUNTY, TEXAS**

 **§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ § SITTING AS JUVENILE COURT**

**ORDER OF COMPENSATION**

 On this day, came to be considered by the request for payment of court-appointed attorney's fees tendered in writing by counsel in the above-entitled and numbered cause. The Court finds that the court-appointed counsel of record has requested as follows:

Attorney's Time:

 In Court ……….. \_\_\_\_\_ hrs. $\_\_\_\_\_\_\_\_

 Out of Court …... \_\_\_\_\_ hrs. $\_\_\_\_\_\_\_\_

 Staff Time: \_\_\_\_\_ hrs. $\_\_\_\_\_\_\_\_

Expenses: $\_\_\_\_\_\_\_\_

 TOTAL $\_\_\_\_\_\_\_\_

(\_\_\_) The Court finds that the amount requested by counsel is reasonable and in compliance with the 32nd Judicial District Juvenile Indigent Defense Plan and should be paid in full, without exception.

(\_\_\_) The Court, having considered the above request for payment and attached time sheet, finds that the requested amount should be, and it is hereby **DISAPPROVED**. The Court enters the following written findings: (Check only those which the Court finds.)

(\_\_\_) The request for payment is unreasonable and not in conformity with the Standing Order for Compensation of Attorneys to Represent Indigent Defendants, which the Court finds provides reasonable compensation.

(\_\_\_) Court appointed counsel seeks compensation for research and time which are not reasonably related to the specific case on trial and/or work which was not reasonable and necessary to the preparation and disposition of this case.

(\_\_\_) Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IT IS, THEREFORE, ORDERED** that the Court-appointed counsel named below, be and shall be paid from the General Fund of \_\_\_\_\_ County, Texas as follows:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ $\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Attorney's Name) (Amount)

Signed this the \_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 JUDGE PRESIDING

FORM I

###### RULES FOR THE APPEAL OF A TRIAL COURT’S DISAPPROVAL OF

###### REQUESTED COURT APPOINTED ATTORNEY’S FEE

SEVENTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS

1. **Duties of Attorney Seeking Review of Trial Court’s Order**

An attorney who chooses to appeal the trial court’s disapproval of the requested attorney’s fees shall file a motion with the Presiding Judge of the Seventh Administrative Judicial Region within twenty (20) days of the trial court’s signing of an order disapproving the requested court appointed attorney’s fee.

The appealing attorney shall set forth in his motion the following information:

1. The cause number, style and caption of the case;
2. The type and classification of the offense;
3. The date that the attorney was appointed;
4. The date on which the case was disposed;
5. Whether the case was disposed of by dismissal, a plea, a bench trial, or a jury trial;
6. The date and length of each court appearance within the nearest one-tenth of an hour, if the attorney is requesting to be compensated based upon an hourly fee;
7. The date of each office conference or jail conference and the time spent within the nearest one-tenth of an hour;
8. A copy of any itemization submitted to the trial court for the purpose of payment including a statement of each date a service was rendered, the type of service rendered, the time expended in the rendering of said service, the expenses incurred, and a statement explaining any attached vendor’s invoice or expert’s service invoice;
9. Any factors that required unusual effort on the attorney’s part to overcome in the representation of the defendant including but not limited to: need for an interpreter, uncharged crimes and Penal Code Sec. 12.45 issues, multiple defendants, etc.;
10. The date that the fee order the subject of the motion was signed;
11. A detailed statement by the attorney explaining of how the trial court’s order disapproving the requested court appointed attorney’s fee deviated from the county’s approved fee schedule adopted under the Texas Fair Defense Act.

The appealing attorney shall attach the following documents to the motion:

1. A copy of the trial court’s order disapproving the requested court appointed attorney’s fee, if any; and
2. A copy of the county’s indigent fee schedule adopted pursuant to the Texas Fair Defense Act.
3. **Procedure**

The appealing attorney shall file the original of the motion with the clerk of the court in which the case is pending, and shall file a certified copy of the motion with the Presiding Judge of the Seventh Administrative Judicial Region and with the trial court. The Presiding Judge of the Seventh Administrative Judicial Region shall abate any ruling on the motion for a period of not less than ten (10) days from the filing of the motion pending an opportunity for further review by the trial court.

After receiving the motion, the trial court may enter a revised payment order within the ten (10) day period following the filing of the motion., The trial court shall file a copy off the revised payment order with the Presiding Judge of the Seventh Administrative Judicial Region.

If a revised payment order is entered resolving the dispute to the satisfaction of the appealing attorney, the attorney shall file with the Presiding Judge a notice withdrawing the appeal. The motion will then be deemed moot and no further action will be taken by the Presiding Judge of the Seventh Administrative Judicial Region.

If the trial court’s revised payment order does not fully resolve the issue to the satisfaction of the appealing attorney, the attorney shall, within five (5) days of the signing of the trial court’s revised payment order, file with the Presiding Judge of the Seventh Administrative Judicial Region and the trial court a notice stating that the matter remains subject to contest. The attorney shall attach a copy of the trial court’s revised payment order to said notice. The trial court shall, within five (5) days fo the filing of the notice of contest, file written findings that set forth in detail the reason(s) for disapproving the requested attorney’s fee. The findings should substantially comply with the form attached as Appendix A.

If the trial court does not enter a revised payment order, the trial court shall, within five (5) days of the filing of the motion, file written findings that set forth in detail the reason(s) for disapproving the requested attorney’s fee. The findings should substantially comply with the form attached as Appendix A.

If the Presiding Judge of the Seventh Administrative Judicial Region has not received notice of a resolution of the appeal prior to the expiration of ten (10) days from the filing of the motion, the Presiding Judge shall rule on the motion in accordance with the provisions of §26.05(c), Texas Code of Criminal Procedure. The Presiding Judge shall sign an order that substantially conforms to the form order attached as Appendix B.

**APPENDIX A**

**NO. \_\_\_\_\_\_\_\_\_\_**

**IN THE INTEREST OF § IN THE COUNTY COURT \_\_\_\_\_\_**

 **§**

 **§ OF \_\_\_\_\_ COUNTY, TEXAS**

 **§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ § SITTING AS JUVENILE COURT**

**Trial Court’s Written Findings Regarding Requested Court Appointed Attorney’s Fee**

On this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 200\_\_, the Court, after reviewing the above styled and numbered case, finds that the requested amount of payment by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is not reasonable and therefore is disapproved for the following reason(s):

* The Court finds that the requested fees exceed the Court’s approved fee schedule.
* The Court finds that the attorney has failed to provide to the Court an itemized document setting forth billable attorney’s hours and/or expenses.
* The Court finds that the attorney has submitted an hourly rate that exceeds the rate established by the fee schedule.
* The Court finds that the attorney has submitted an itemized statement that records unauthorized expenses, to-wit:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* The Court finds that the time and labor required, the lack of novelty and difficulty of the questions involved and the skill requisite to properly perform the legal services do not justify the requested fee.,
* The Court finds that the requested payment exceeds the fee customarily charged in the locality for similar legal services.
* The Court finds that the nature and length of the professional relationship with the client does not justify the requested fee.
* The Court finds that the requested payment of fees as submitted by the attorney is not supported for the following reasons:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* Other:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The Court finds that an attorney’s fee in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_ should be paid to said attorney as fair and just compensation for the attorney’s fee in the case.

**SIGNED** the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 JUDGE PRESIDING

**APPENDIX B**

**NO. \_\_\_\_\_\_\_\_\_\_**

**IN THE INTEREST OF § IN THE COUNTY COURT \_\_\_\_\_\_**

 **§**

 **§ OF \_\_\_\_\_ COUNTY, TEXAS**

 **§**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ § SITTING AS JUVENILE COURT**

**Order on Motion to Review Disapproval of**

**Requested Court Appointed Attorney’s Fee**

On this day, came on for consideration the motion to review the disapproval of the requested attorney’s fee filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, court appointed counsel for the Defendant in the above-entitled and numbered cause. After considering the motion and other documents filed, the following order is rendered.

IT IS ORDERED that motion is GRANTED/DENIED.

**If the motion is granted.**

IT IS FURTHER ORDERED that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall be paid a reasonable attorney’s fee of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**If the motion is denied.**

IT IS FURTHER ORDERED that the order for payment signed by the trial court on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is AFFIRMED.

The District/County Clerk of \_\_\_\_\_\_\_\_\_\_\_\_ County, Texas shall certify this order to the Commissioners’ Court of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, Texas for its observance and, if applicable, furnish a copy of this order to the County Auditor.1

SIGNED on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 PRESIDING JUDGE

 Seventh Administrative Judicial Region

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1Not later than the 45th day after the date an application for payment of a fee is submitted, the commissioners court shall pay to the appointed counsel the amount that is approved by the presiding judge of the administrative judicial region and that is in accordance with the fee schedule for that county.

Art. 26.05(c), Texas Code of Criminal Procedure