

LOCAL INDIGENT DEFENSE RULES & PLAN
FOR THE 355TH DISTRICT COURT AND THE
COUNTY COURT AT LAW OF HOOD COUNTY, TEXAS
PROMULGATED IN ACCORDANCE
WITH THE PROVISIONS OF
THE TEXAS FAIR DEFENSE ACT
(S.B. 7) EFFECTIVE NOVEMBER 1, 2019

The judges of the 355th District Court and the County Court at Law of Hood County, Texas, hereby adopt the following plan and local rules for determination of indigency in criminal cases; establishing procedures for timely appointment of attorneys to represent indigent defendants; establishing qualifications for appointment; listing qualified attorneys for appointment in specified cases; and setting out uniform schedules of fees for compensation of appointed attorneys in the respective courts.

Prompt Magistration

I. Procedures for Appointing Counsel/Prompt Magistration

1. The officer making the arrest or the person who later has custody of the person arrested shall take the person arrested before a magistrate in this county without unnecessary delay, but in any event, within 48 hours after arrest. A person arrested for a misdemeanor without a warrant must be released on bond in an amount no more than \$5,000 not later than 24 hours after arrest if a magistrate has not determined probable cause by that time.
2. The magistrate before whom a person under arrest is taken for warnings described in Art. 15.17(a), C.C.P. shall inform the person of his or her right to request appointment of counsel if indigent and the procedures for requesting such appointment, and shall further insure that reasonable assistance in completing the necessary forms is provided to that person, including appointment of an interpreter under Art. 38.30 or Art. 38.31, if needed or requested.
3. A record must be made of a magistrate informing an accused of the accused's right to request appointment of counsel, of the magistrate asking whether an accused wants to request appointment of counsel and whether an accused requested court appointed counsel.
4. If not authorized to appoint counsel, the magistrate shall within 24 hours transmit or cause to be transmitted to the appointing authority an accused's request for counsel.
5. Jail personnel shall immediately make available to anyone in custody, upon request, an Application for Appointment of Counsel after the magistrate's warning under Art. 15.17(a), C.C.P.
6. A Declaration of Financial Inability to Employ Counsel (Exhibit "A") and an Application for Appointment of Counsel (Exhibit "A-1") shall be completed by the defendant and faxed or delivered to the court with jurisdiction of an inmate's charges within 24 hours by the inmate, but in any event no later than noon on the first working day after completion of the application.
7. The judge of the court with jurisdiction over the defendant shall determine whether the defendant meets the financial standards for indigence. The determination will be recorded on the form requesting appointment of counsel, and the form will be filed with the other orders in the case.

8. For persons arrested on out-of-county warrants, the magistrate must ask the defendant if he/she would like to request appointed counsel and inform the person of the procedures for requesting counsel. The magistrate will record the response, and if counsel is requested, the magistrate will provide the arrestee with the appropriate forms for requesting counsel. Financial forms of individual counties may be obtained from the Texas Indigent Defense Commission's website at <http://tidc.tamu.edu/public.net>. The magistrate will ensure assistance in completing the forms at the same time. The forms will be transmitted to the appointing authority in the county issuing the warrant within 24 hours of the request being made.

Indigence Determination Standards

II. Procedures and Financial Standards for Determining Indigency

1. An indigent defendant is entitled to have an attorney appointed to represent him in any adversary judicial proceeding that may result in punishment by confinement and in any other criminal proceeding if the court concludes that the interests of justice require representation.
2. "Indigent" means a person who is not financially able to employ counsel. A person who requests a determination of indigency and appointment of counsel shall:
 - (a) complete under oath a questionnaire concerning his financial resources;
 - (b) respond under oath to an examination regarding his financial resources by the judge or magistrate responsible for determining whether the defendant is indigent; or
 - (c) both.
3. A questionnaire regarding financial ability shall be provided to any person requesting appointment of counsel on the basis of indigency (see Exhibit "A" attached hereto). Before making a determination of whether a defendant is indigent, the court shall require the defendant to complete the questionnaire and sign under oath a statement substantially in the following form:

"On this ____ day of _____, 20____, I have been advised of my right to representation by counsel in the trial of the charge pending against me. I certify that I am without means to employ counsel of my own choosing and I hereby request the court to appoint counsel for me.

Defendant

4. In determining whether a defendant is indigent and entitled to appointment of counsel, the court shall consider the defendant's:
 - a) responses to the questionnaire and any examination by the court;
 - b) income and source of income;
 - c) assets and property owned;
 - d) outstanding obligations and necessary expenses;
 - e) the number and ages of dependents;
 - f) spousal income that is available to defendant; and
 - g) such other reasonable factors as determined by the judge.
5. The financial standards set forth below shall be used to determine whether a defendant is indigent and shall be applied equally to each defendant in the county.

- (a) A defendant is considered indigent if:
 - (1) the defendant's net household income does not exceed 100% of the Poverty Guidelines as established and revised annually by the United States Department of Health and Human Services and published in the Federal Register; and
 - (2) the value of the non-exempt assets and property owned by the defendant:
 - (i) does not exceed \$1,000;
 - (ii) does not exceed \$2,000 in the case of a defendant whose household includes a person who is age 60 or over, disabled, or institutionalized; or
 - (iii) does not exceed the estimated cost of obtaining competent private legal representation on the offense(s) with which the defendant is charged.
- (b) A defendant is considered indigent if, at the time of requesting appointed counsel, the defendant or the defendant's dependents have been determined to be eligible to receive food stamps, Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, public housing, or similar assistance.
- (c) A defendant who does not meet any of the financial standards above shall nevertheless be determined indigent if the defendant is otherwise unable to retain private counsel without substantial hardship to the defendant or the defendant's dependents, taking into account the nature of the criminal charge(s), the anticipated complexity of the defense, the estimated cost of obtaining competent private legal representation for the matter charged, and the amount needed for the support of the defendant and the defendant's dependents.

6. Factors Not to be Considered.

- (a) A defendant's posting of bail or ability to post bail may not be considered in determining whether the defendant is indigent. Even when a defendant has posted bail, the defendant's financial circumstances are measured by the financial standards stated in this rule.
- (b) The resources available to friends or relatives of the defendant may not be considered in determining whether the defendant is indigent. Only the defendant's financial circumstances are measured by the financial standards stated in this rule and shall be used as the basis for determining indigence.

7. Once an indigency determination has been made, there shall be a presumption of indigency for the remainder of the proceedings unless a material change in the defendant's financial circumstances occurs. In the event of such a change, the defendant, the defendant's counsel, or the State's attorney may move for reconsideration of the determination of indigency or the court may do so on its own motion.

Minimum Attorney Qualifications

III. Qualifications for Appointment

All attorneys residing or practicing in Hood County, Texas, who are licensed to practice law by the Supreme Court of Texas and who handle criminal defense cases in the district court or the county court at law of this county for a fee are eligible for appointment to represent indigent defendants in those courts. Each attorney desiring to accept appointments shall apply to be placed on the list by completing an attorney profile to be submitted to the judges of the 355th District Court and the County Court at Law of Hood County, Texas (see attached Exhibit "B"). Appointees must further meet the following minimum qualification standards for appointment.

- 1. Be a member in good standing of the State Bar of Texas;

2. Have adequate experience in the practice of criminal law to proficiently represent a defendant in a misdemeanor and/or felony criminal case;
3. Have a willingness to promptly interview the client and potential witnesses, perform required research, prepare and present pretrial motions, cross-examine adverse witnesses and to zealously defend the client in a jury trial, bench trial or plea proceeding;
4. Have a thorough knowledge of the provisions of the Texas Penal Code, the Texas Code of Criminal Procedure and the applicable rules of ethics;
5. Have not been removed for good cause from the public appointment list by the judge in whose court the attorney is appointed to serve and 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 five years;
6. Complete annually such continuing legal education programs as required by the Texas Judicial Council, the State Bar of Texas, and the local rules of courts of Hood County, Texas, which shall include at least 6 hours, annually, in continuing legal education in the field of criminal law in order to remain on the Court's appointment list. A sworn affidavit by the attorney verifying that he/she has completed such annual educational requirement must be filed with the Court on or before December 31 of each year. Failure to file such affidavit will be grounds for removal from the Court's appointments list.
7. In non-capital 1st or 2nd degree felony cases, have a minimum of two years of experience in criminal litigation or have participated as counsel/co-counsel in three felony criminal cases. In 3rd degree or state jail felony cases or motions to revoke probation, have a minimum of one (1) year experience in criminal litigation or have participated as counsel/co-counsel in two felony criminal cases.
8. In misdemeanor cases, satisfy the requirements of paragraphs 1 through 6 above.
9. As lead counsel in capital cases in which the State is seeking the death penalty, meet the standards required of an attorney appointed to a death penalty case as set forth in Art. 26.052(d)(2)(A-F), Texas Code of Criminal Procedure. An attorney in the 8th Administrative Region or any adjoining region who meets those standards may be appointed as lead counsel.
10. An attorney shall submit by October 15th each year to the court a statement that describes the percentage of the attorney's practice time that was dedicated to work based on appointments accepted 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 (Exhibit "C").
11. An attorney must maintain an office capable of receiving email, fax, and telephone calls;
12. 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;
13. Meet any applicable qualifications specified by the Task Force on Indigent Defense, as required in Art. 26.04(d)(3), Texas Code of Criminal Procedure.

IV. Capital Case Qualification Requirements:

1. Lead trial counsel must be on the list of attorneys approved by the local selection committee of this Administrative Judicial Region for appointment as lead counsel in death penalty cases, as provided in Article 26.052, Texas Code of Criminal Procedure;
2. Second chair counsel must be on the list of attorneys approved by the local selection committee of this administrative judicial region for appointment as lead trial counsel or second chair counsel in death penalty cases, as provided in Article 26.052, Texas Code of Criminal Procedure.
3. Appellate counsel must be on the list of attorneys approved by the local selection committee of this administrative judicial region for appointment as appellate counsel in death penalty cases, as provided in Article 26.052, Texas Code of Criminal Procedure

V. Duties of Appointed Counsel:

1. Notify the court within 72 hours of the receipt of appointment;
2. Make every reasonable effort to:
 - i. Contact the defendant by the end of the first working day after the date on which the attorney is appointed; and
 - ii. Interview the defendant as soon as practicable after the attorney is appointed;
3. Represent the defendant until:
 - i. Charges are dismissed;
 - ii. The defendant is acquitted;
 - iii. Appeals for which the defendant is entitled to appointed counsel are exhausted; or
 - iv. The attorney is relieved of his duties by the court or replaced by other counsel.
4. 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;
5. 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;
6. Be prepared to negotiate with the prosecutor for the most favorable resolution of the case as can be achieved through a plea agreement;
7. Be prepared to try the case to conclusion either with or without a jury;
8. 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;
9. Maintain reasonable communication and contact with the client at all times and keep the client informed of the status of the case; and

10. 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; and
11. 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.
12. 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.

VI. Procedures for Removal of Attorneys from the Court-Appointment List

Grounds for Removal

An attorney may be removed from the appointment list if the attorney:

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. 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 an 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; or
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.

An attorney who was removed from the appointment list for not submitting the attorney's annual practice time report may be immediately reinstated upon submission of the report so long as the attorney otherwise meets the qualifications under this Plan.

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 board of judges 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.

Notification/Hearing

Upon receiving an attorney referral, the board of judges 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 board of judges will meet to discuss the referral and give the attorney an opportunity to respond to the referral in writing or in person or both.

Action

After the board of judges meets and gives the attorney an opportunity to be heard, the board of judges shall determine whether the attorney should:

1. remain on the appointment list at the same level;
2. moved to an appointment list for indigent defendants charges with less serious offenses; or
3. be removed from appointment list altogether.

The attorney may be removed from the appointment list or moved to an appointment list for indigent defendants charged with less serious offenses by a majority vote of the judges present. In addition, the majority of the judges may also vote to require the attorney to take other rehabilitative measures. Removals from any list may be probated. For removal or probated removals, the judges ordering the removal may require the completing of 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 "e; Grounds for Removal"e; number 7 or 8 shall be immediately reinstated upon providing proof that the charges were dismissed or that the attorney was acquitted, unless other grounds for removal exist against the attorney that would prohibit reinstatement.

The decision of the board of judges is final and may not be appealed.

Prompt Appointment of Counsel

VII. Prompt Appointment of Counsel

1. The judge shall appoint counsel for an indigent defendant as soon as possible but not later than the end of the third working day after the date on which the court receives the defendant's request for appointment of counsel. If an accused person has both misdemeanor and felony charges pending against him/her, the District Judge shall appoint an attorney who will represent the defendant in all such misdemeanor and felony charges
2. If an indigent defendant is arrested in another county based on this county's warrant, counsel will be appointed within three (3) working days of this county's receipt of the request for counsel.
3. 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.
4. If an indigent defendant is released from custody prior to the appointment of counsel under this procedure, appointment of counsel is not required until the defendant's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first, in accordance with Art. 1.051(j), C.C.P. An indigent defendant charged with an offense punishable by confinement who appears in court without counsel shall have an opportunity to confer with appointed counsel before judicial proceedings against him/her commence.
5. 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 at <http://tidc.tamu.edu/public.net/>. The defendant may submit these forms to the appointing authority. The Court will rule on all requests for counsel submitted in this manner:

Appointment Authority

- i. If no case has been filed in the trial court, the appointing authority for misdemeanors is the County Court at Law Judge.
 - ii. If no case has been filed the trial court, the appointing authority for felonies is the District Judge.
 - iii. If the case has been filed in the trial court, the appointing authority for misdemeanors is the County Court at Law Judge and the appointing authority for felonies is the District Judge.
6. The judge shall attempt to notify the attorney or attorney's staff by telephone on the same day that the appointment is made, and a written copy of the order appointing the attorney shall be mailed and faxed that same day to the attorney's office. The appointed attorney shall make every reasonable effort to contact the defendant by regular mail, facsimile, telephone, or in-person no later than the end of the first working day after notification of appointment. The attorney shall visit the appointed client incarcerated at the Hood County jail at the earliest possible time and in no case shall that initial visit be later than one week from the notification of appointment.

Defendants Appearing Without Counsel

If a defendant appears without counsel in any adversary judicial proceeding that may result in punishment by confinement:

- i. 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.
- ii. 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:
 1. Has been given a reasonable opportunity to retain and has failed to retain appointed counsel; or
 2. Waived or has waived the opportunity to retain private counsel.
- iii. 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.

Waiver of the Right to Counsel

- i. A defendant may voluntarily and intelligently waive the right to counsel.
- ii. A waiver obtained in violation of section IV.B above is presumed invalid.

- iii. 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. 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 the 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)”

- iv. 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. If the defendant withdraws a waiver, the trial court, in its discretion, may provide the appointed counsel 10 days to prepare.

Attorney Selection Process

VIII. Attorney Selection Process

Misdemeanor and Non-Capital Felony Cases

- i. Appointments shall be made from the public appointment list or lists adopted by the judges of the Hood County Court at Law and the 355th District Court which contain the names of qualified attorneys to represent indigent defendants in those courts. The District Judge of Hood County shall approve a list of eligible attorneys on or before January 1 of each year and such list shall be posted outside of the District Clerk’s offices and available to the public upon request. The County Court at Law Judge of Hood County shall approve a list of eligible attorneys on or before January 1 of each year and such list shall be posted outside of the County Clerk’s offices and made available to the public upon request.
- ii. Appointments from the list shall be made using a system of rotation. Attorneys shall be appointed in the order in which the names appear on the list, unless the court makes a finding of good cause for appointing an attorney out of order. “Good cause” includes, but is not limited to, experience of the attorney; complexity of the case; severity of the charges; and conflicts in representation. An attorney who is not appointed in the order in which the attorney’s name appears on the list shall remain next in the order on the list.

Capital Felony Cases

- i. The Regional Public Defender for Capital Cases shall be appointed to all capital felony cases unless good cause exists to appoint private counsel.

1. If a co-defendant requests appointment of counsel and is determined to be indigent, the Appointing Authority shall appoint counsel pursuant to the standards and procedures stated in this Section.
2. If private counsel is appointed to a co-defendant, rather the Regional Public Defender for Capital Cases, co-counsel will be appointed using the standards and procedures stated in this Section.
- ii. The Regional Public Defender for Capital Cases may refuse to accept appointment to a case if:
 1. A conflict of interest exists;
 2. The Office has insufficient resources to provide adequate representation;
 3. The Office is incapable of providing representation in accordance with the rules of professional conduct;
 4. Acceptance of the appointment would violate the maximum allowable caseloads established for the office; or
 5. The Office shows other good cause for refusing appointment.
- iii. The Appointing Authority shall immediately contact the attorneys appointed by phone, fax, e-mail or in person and notify the attorneys of the appointment and the last known location of the defendant.

Fee and Expense Payment Process

IX. Compensation of Counsel Appointed to Represent Indigent Defendants

Counsel appointed to represent indigent defendants in criminal proceedings in Hood County shall be paid in accordance with the schedule of fees adopted by the respective courts in which the case is prosecuted, to-wit:

- A. In the 355th District Court:**
(see Exhibit "D" attached hereto)
- B. In the County Court at Law:**
(see Exhibit "E" attached hereto)

Payment process: No payment of attorney's fees will be made other than in accordance with the rules as set forth below. Attorneys shall also be reimbursed for reasonable and necessary expenses incurred with prior court approval, and the payment of all fees and expenses requires the approval of the court in writing.

- i. An appointed attorney shall fill out and submit a fee voucher to the court for services rendered (see Exhibit "F" attached hereto).
- ii. The attorney requesting payment under this provision shall keep an accurate account of time expended, services rendered, and dates involved, and shall furnish documentation thereof to substantiate the reasonableness and necessity of the services rendered and time spent on the case. Approval or disapproval of the reasonableness and necessity of time expended and/or services performed shall be within the exclusive discretion of the court.
- iii. The trial judge presiding over the proceedings shall review the request for compensation and either approve or disapprove of the amount requested.

1. 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.
2. 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.

Investigative and Expert Expenses. Counsel appointed in a noncapital case shall be reimbursed for reasonable and necessary expenses, including expenses for investigations and for mental health and other experts. Expenses incurred with and without prior court approval shall be reimbursed, according to the procedures set forth below. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts.

Procedure With Prior Court Approval:

Appointed Counsel may file with the trial court a pretrial ex parte confidential request for advance of payment of investigative and expert expenses. The request for expenses must state, 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 or each expert.

The court shall grant the request for advance payment of expenses in whole or in part if the request is reasonable. If the court denies in whole or in part the request for expenses, the court shall:

- (1) state the reasons for the denial in writing;
- (2) attach the denial to the confidential request; and
- (3) submit the request and denial as a sealed exhibit to the record.

Procedure Without Prior Court Approval:

Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable or unnecessary expenses will not be approved.

Miscellaneous

X. Annual Review

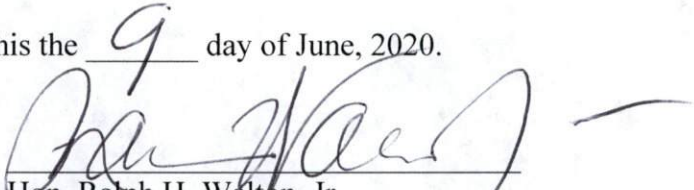
The judge of the 355th District Court shall annually review and reform the list of eligible court-appointed counsel and cause same to be posted outside the Hood County District Clerk's Office and made available to the public upon request.

The judge of the Hood County Court at Law shall annually review and reform the list of eligible court-appointed counsel and cause same to be posted outside the Hood County Clerk's Office and made available to the public upon request.

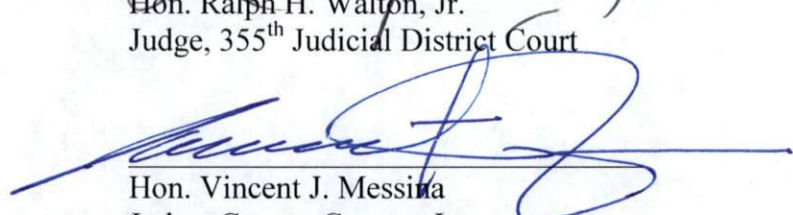
XI. Adoption of Plan and Rules

The foregoing plan and local rules for the timely and fair appointment of counsel for indigent defendants in criminal cases in Hood County, Texas, are hereby adopted by the judges of the County Court at Law and the 355th District Court in Hood County, Texas, in accordance with the provisions of Art. 26.04(a), Texas Code of Criminal Procedure. This plan and local rules are subject to amendment from time to time by the undersigned.

SIGNED AND ORDERED this the 9 day of June, 2020.



Hon. Ralph H. Walton, Jr.
Judge, 355th Judicial District Court



Hon. Vincent J. Messina
Judge, County Court at Law
of Hood County, Texas

CAUSE NO. _____

THE STATE OF TEXAS

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§
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§
§

IN THE DISTRICT COURT

VS.

355TH JUDICIAL DISTRICT

HOOD COUNTY, TEXAS

DECLARATION OF FINANCIAL INABILITY TO EMPLOY COUNSEL

I, _____, am the Defendant in the above entitled action. I am not represented by counsel in this proceeding. I have no assets except the following:

1) My earnings are (Name, address of employer, and amount of weekly or monthly earnings):

2) I have other income in the amount of (State source of income and amount per week or month):

3) I am/am not married and support _____ children and/or dependents who are:

_____	,	_____
Name		Relationship
_____	,	_____
Name		Relationship
_____	,	_____
Name		Relationship

4) Earnings of my spouse and/or children are (Name of employer and amount of weekly or monthly earnings):

5) I own the following property: (Address where located) (Payments) (Balance owed) (Value)

- a) Home _____
- b) Automobile _____
- c) Furniture _____
- d) Other (Land/Buildings) _____
- e) Notes, mortgages, trust deeds _____
- f) Motorcycles _____
- g) Other vehicles _____
- h) War bonds _____
- i) Stocks and bonds _____
- j) Animals _____
- k) Jewelry _____
- l) Other personal property _____

6) I have the following money:

- a) In jail..... _____
- b) At home... _____
- c) Checking accounts _____
- d) Savings accounts... _____
- e) In safety deposit box..... _____
- f) Being held or owed to me.. _____
- g) Other.... _____

7) I have the following debts and/or expenses in addition to those listed above:

8) I am/am not free on bail. Amount of bail \$ _____. Name of person who paid for bail bond: _____

I have no ability to obtain credit to raise funds with which to employ an attorney to defend me. I declare under penalty of perjury that the foregoing is true and correct.

Dated this _____ day of _____, 20____, at _____, Texas.

Signature of Declarant
Criminal Indigent Plan – S.B.7

CAUSE NO. _____

THE STATE OF TEXAS

VS.

§
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IN THE DISTRICT COURT

355TH JUDICIAL DISTRICT

HOOD COUNTY, TEXAS

APPLICATION FOR APPOINTMENT OF COUNSEL

On this _____ day of _____, 20____, I have been advised of my right to representation by counsel in the trial of the charge pending against me. I certify that I am without means to employ counsel of my own choosing and I hereby request the court to appoint counsel for me. I further certify that all statements in the attached Declaration of Financial Inability to Employ Counsel are true and correct.

Defendant

SUBSCRIBED AND SWORN TO before me, the undersigned authority, on this the _____ day of _____, 20____.

Notary Public in and for the State of Texas
My commission expires: _____

ORDER APPOINTING/DENYING COUNSEL

On this the _____ day of _____, 20____, came on to be heard in the above numbered and entitled cause, the sworn affidavit of Defendant requesting appointment of counsel to represent Defendant in said cause, and it appears to the Court that the Defendant is/is not an indigent person, too poor to employ counsel to represent Defendant, and that Defendant is entitled to have an attorney appointed to represent Defendant herein.

It is therefore ORDERED, ADJUDGED and DECREED that _____ a licensed practicing attorney in the State of Texas, be, and is hereby appointed counsel for the Defendant; or

It is therefore ORDERED, ADJUDGED and DECREED that the Application for Appointment of Counsel is DENIED.

Presiding Judge

Application For Criminal Indigent Defense Appointments

1. I _____, am applying to be considered for indigent criminal defense appointments.
2. Are you board certified by the Texas Board of Legal Specialization? Yes No
3. If yes, in what area(s)?
4. Are you a member of the State Bar College? Yes No
5. How many hours of continuing legal education did you average the last three years? _____
6. Have you ever been sanctioned for failure to appear before a court? Yes No
If so, attach a written explanation.
7. How many years have you been in practice? _____
8. What percentage of your practice is in criminal law? _____
9. Indicate the approximate percentage of your trial experience that has involved:
 - a) Sex Offenses _____
 - b) Drug Offenses _____
 - c) Property Crimes _____
 - d) Assaultive Offenses _____
10. What percentage of your practice consists of indigent criminal appointments? _____
11. How many criminal cases have you participated in as counsel/co-counsel? _____
12. How many years of experience do you have in handling criminal cases? _____

Applicant's signature

SWORN TO and SUBSCRIBED before me on _____

Notary Public in and for Hood County,
The State of Texas
My commission expires: _____

Please attach any other information that would qualify you for appointments.

TEXAS INDIGENT DEFENSE COMMISSION
ATTORNEY REPORTING FORM

Hood County, Texas

Under Article 26.04(j)(4), Code of Criminal Procedure, attorneys are required to report the percentage of their practice time devoted to appointed criminal and juvenile offender cases under Article 26.04, Code of Criminal Procedure, and Title 3, Family Code, in each county.

1. Approximately ____% of my total practice time for the preceding fiscal year (October 1st – September 30th) was devoted to work on adult criminal cases in which I was appointed to represent indigent defendants in Hood County, Texas.
2. Approximately ____% of my total practice time for the preceding fiscal year (October 1st – September 30th) was devoted to work on juvenile delinquency cases (cases alleging delinquent conduct or conduct indicating a need for supervision) in which I was appointed to represent the juvenile in Hood County, Texas.

Attorney Name

State Bar of Texas No.

State Bar of Texas Number

Date

**SCHEDULE OF FEES IN INDIGENT CASES
355TH JUDICIAL DISTRICT**

The following schedule of fees shall determine the compensation to be paid to counsel appointed to defend indigent persons in the 355th Judicial District Court, effective 10-01-19:

<u>SERVICE</u>	<u>FEE</u>
1. Plea of guilty or nolo contendere to the court	\$675.00
2. Representation in a Motion to Revoke Probation or A Motion to Proceed with Adjudication of Guilt a) If involving multiple cases	\$550.00 if contested \$450.00, if based on plea \$650.00 if contested \$500.00 if based on plea
3. Representation resulting in an Order of Dismissal of indictment prior to plea, if based on work of defense counsel, and with supporting documents. a) Multiple cases dismissed prior to indictment based on defense counsel work, and with supporting documents.	\$350.00, max \$500.00
4. Representation resulting in substitution of counsel	\$350.00, max, with supporting documentation
5. Representation in a Motion for Shock Probation	\$300.00
5. Representation of multiple cases involving a single Defendant resulting in a Plea of Guilty or Nolo Contendere to the Court and disposition of all cases	\$825.00
7. Trials (Jury and Non-Jury)	a) \$450.00 per half day PLUS b) \$120.00 per hour for trial preparation (15 hr. maximum w/supporting documentation)
8. Filing Motion for New Trial	\$125.00, without hearing \$225.00, with hearing
9. Appeal to the Court of Appeals	\$1,150.00 (brief plus oral argument) \$900.00 (brief only)
10. Representation in Petition for Discretionary Review	\$300.00
11. Appeal to the Court of Criminal Appeals	\$850.00
12. Post-Conviction writ of habeas corpus proceeding	\$500.00
13. Juvenile detention, adjudication & disposition Juvenile Modifications	\$850.00, if contested \$700.00, if based on plea \$375.00, if contested \$275.00, if uncontested
14. C.P.S. Cases	a) Adversary Hearing \$425.00, if contested \$300.00, if uncontested b) Each Review Hearing \$150.00 c) Each Permanency Conference \$100.00 d) Mediation \$350.00 1) Multiple Mediations \$550.00 e) Final Hearing 1) \$600.00, if contested 2) \$400.00, if uncontested 3) \$120.00 per hour for preparation time for contested final hearing (15 hr. maximum with supporting documentation)
15. Hourly rate, for services other than those stated above and as approved by the Court at \$120.00 per hour, max	

MISDEMEANOR CRIMINAL COURT APPOINTMENT
HOOD COUNTY COURT AT LAW FEE SCHEDULE
Effective 10/1/19

Service	Fee
Dismissal in misdemeanor case (including 1245's)	\$250.00 Plea
in misdemeanor case	\$400.00
Multiple misdemeanor pleas (same defendant, same day)	\$450.00
Complex misdemeanor plea [Involving complex issues, lengthy pre-trial, extensive records review/investigation of facts]	\$525.00
Multiple cases on one defendant (maximum fee)	\$575.00
Trial to the Court	\$425.00 (1/2 day) \$500.00 (full day)
Jury Trial (each additional day or partial day thereafter)	\$550.00 (1/2 day) \$750.00
Misdemeanor revocations (contested)	\$450.00
Misdemeanor revocations (uncontested)	\$375.00
Habeas Corpus, Motion for New Trial	\$325.00
Appellate Brief	\$700.00
Appellate Brief w/Oral Argument	\$1,025.00

Attorney Fee Voucher Vendor Number _____

“EXHIBIT F”

1. Jurisdiction <input type="checkbox"/> District <input type="checkbox"/> County <input type="checkbox"/> County Court at Law Court # _____	2. County _____	3. Cause Number _____ _____ _____	Offense _____ _____ _____	4. Proceedings <input type="checkbox"/> Trial-Jury <input type="checkbox"/> Trial-Court <input type="checkbox"/> Plea-Open <input type="checkbox"/> Plea- Bargain <input type="checkbox"/> Other _____
5. In the case of: _____ State of Texas v _____				
6. Case Level <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Juvenile <input type="checkbox"/> Appeal <input type="checkbox"/> Capital Case <input type="checkbox"/> Revocation – Felony <input type="checkbox"/> Revocation – Misdemeanor <input type="checkbox"/> No Charges Filed <input type="checkbox"/> Other _____				
7. Attorney (Full Name) _____ _____		9. Attorney Address (Include Law Firm Name if Applicable). _____ _____		10. Telephone _____
8. State Bar Number _____	8a. Tax ID Number _____			11. Fax _____
12. Flat Fee – Court Appointed Services			Date of Service	12a. Total Flat Fee \$ _____
13. In Court Services			Hours	Dates
Rate per Hour = _____			Total hours _____	13a. Total In Court Compensation. \$ _____
14. Out of Court Services			Hours	Dates
Rate per Hour = _____			Total hours _____	14a. Total Out of Court Compensation. \$ _____
15. Investigator			Amount	15a. Total Investigator Expenses \$ _____
16. Expert Witness			Amount	16a. Total Expert Witness Expenses \$ _____
17. Other Litigation Expenses			Amount	17a. Total Other Litigation Expenses \$ _____
18. Time Period of service Rendered: From _____ Date to _____ Date				
19. Additional Comments _____ _____				20. Total Compensation and Expenses Claimed \$ _____
21. Attorney Certification – I, the undersigned attorney, certify that the above information is true and correct and in accordance with the laws of the State of Texas. The compensation and expenses claimed were reasonable and necessary to provide effective assistance of counsel. <input type="checkbox"/> Final Payment <input type="checkbox"/> Partial Payment _____ _____ Signature _____ Date				
22. SIGNATURE OF PRESIDING JUDGE: _____ _____				Amount Approved: \$ _____
Reason(s) for Denial or Variation _____ _____				