

## **COMPENSATION OF COURT APPOINTED COUNSEL**

### **A. Fee Schedule**

Pursuant to Article 26.05, Texas Code of Criminal Procedure, the constitutional county court, statutory county courts and district courts of Midland County with criminal jurisdiction, having taken into consideration the reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, have adopted the following schedule of fees for the compensation of counsel appointed to represent a defendant in a criminal proceeding:

#### **1. Guilty Plea**

Counsel shall be compensated for each felony criminal proceeding resulting in a negotiated plea of guilty, as follows:

1<sup>st</sup> and 2<sup>nd</sup> Degree.....\$1,500.00

3<sup>rd</sup> & State Jail.....\$1,000.00

Counsel shall be compensated for each misdemeanor criminal proceeding resulting in a negotiated plea of guilty, as follows:

Class A and B.....\$750.00

The fee is inclusive of all court appearances, out of court services performed and expenses incurred by counsel in the proceeding. However, in extraordinary circumstances, counsel may submit an Attorney's Fees Claim Form, that is subject to judicial approval.

#### **2. True Plea**

Counsel shall be compensated for each felony criminal proceeding resulting in a negotiated plea of true, as follows:

1<sup>st</sup> and 2<sup>nd</sup> Degree.....\$1,500.00

3<sup>rd</sup> & State Jail.....\$1,000.00

Counsel shall be compensated for each misdemeanor criminal proceeding resulting in a negotiated plea of true, as follows:

Class A and B.....\$750.00

The fee is inclusive of all court appearances, out of court services performed and expenses incurred by counsel in the proceeding. However, in extraordinary circumstances, counsel may submit an Attorney's Fees Claim Form, that is subject to judicial approval.

### **3. Dismissal with No Re-Indictment and No Misdemeanor Filing**

If a felony criminal proceeding is dismissed before indictment, counsel shall be compensated at a fixed rate of \$250.00.

If a felony criminal proceeding is dismissed after indictment, but before final pretrial, counsel shall be compensated at a fixed rate equal to one-half (1/2) of the amount set for a guilty plea.

If a felony criminal proceeding is dismissed after the final pretrial, counsel shall be compensated at the hourly rate in an amount not to exceed \$4,000.00. Counsel shall submit an Attorney's Fees Claim Form. This payment is subject to judicial approval.

The fee is inclusive of all court appearances, out of court services performed and expenses incurred by counsel in the proceeding.

### **4. Dismissal with Misdemeanor Filing**

In the event the dismissal is for the purpose of filing a misdemeanor charge against the same defendant, no fee shall be paid for the dismissal of the felony charged. Counsel shall continue to represent the defendant on the misdemeanor, but shall be compensated at the felony rate.

### **5. Substitution of Counsel**

If a substitution of counsel occurs, counsel shall be compensated, as follows:

- (a) Before indictment – a fixed rate of \$250.00;
- (b) After indictment, but before final pretrial – a fixed rate equal to one-half (1/2) of the amount set for a guilty plea; or
- (c) After pretrial, but before the Thursday before the case is called for trial – the hourly rate, not to exceed the amount of \$4,000.00;

## 6. Hearings and Trials

- a. Counsel shall be compensated in felony criminal proceedings, as follows:

Arraignments	\$200.00
Pretrial hearings	
Without testimony	\$150.00
With testimony	
Minimum	\$200.00
Maximum	\$450.00
Out of court services	\$200.00/hour
(not to exceed twenty-five (25) hours)	
Trial	
Half day rate	\$1,000.00
Full day rate	\$2,000.00

- b. Counsel shall be compensated in misdemeanor criminal proceedings, as follows:

Arraignments	\$75.00
Pretrial hearings	
Without testimony	\$150.00
With testimony	
Minimum	\$150.00
Maximum	\$3000.00
Out of court services	\$150.00/hour
(not to exceed fifteen (15) hours)	
Trial	
Half day rate	\$1,000.00
Full day rate	\$2,000.00

## 7. Out of Court Services

*“Out of court services”* means the reasonable and necessary time of counsel for conferences, negotiation, and trial preparation in criminal proceedings resulting in a contested trial. *It does not include routine legal research.* Legal research on novel or unusual matters may be compensated, upon prior written approval of the court.

## **8. Capital Cases in Which the State Seeks the Death Penalty**

Counsel shall be compensated in capital felony criminal proceedings in which the State seeks the Death Penalty, as follows:

- a. Lead trial counsel shall be compensated at an hourly rate of \$250.00 per hour for all services performed, not to exceed a total amount set by the presiding judge of the court in which the case has been assigned. The total fee shall be set by the presiding judge based upon the prevailing standards throughout the State of Texas for compensation of appointed counsel in capital death penalty cases and the complexity of the case.
- b. Second chair trial counsel shall be compensated at an hourly rate of \$175.00 per hour for all services performed, not to exceed a total amount set by the presiding judge of the court in which the case has been assigned. The total fee shall be set by the presiding judge based upon the prevailing standards throughout the state for compensation of appointed counsel in capital death penalty cases and the complexity of the case.

## **9. Multiple Cases**

If a defendant has multiple cases which are disposed on or about the same time, counsel shall be compensated as follows:

- a. Felony - \$150.00 per case not to exceed three (3) additional cases: and
- b. Misdemeanor - \$75.00 per case not to exceed three (3) additional cases.

## **10. Withdrawal of Counsel**

If counsel files a motion to withdraw that is granted by the Court, counsel shall be compensated no more than \$250.00, except for good cause shown.

## **11. Appellate Services**

Counsel shall be compensated in criminal appellate and writ proceedings, as follows:

- a. Felony – counsel shall be compensated at an hourly rate of \$200.00 per hour, not to exceed twenty (20) hours or \$4,000.00, whichever is less.
- b. Misdemeanor – counsel shall be compensated at an hourly rate of \$200.00 per hour, not to exceed ten (10) hours or \$2,000.00, whichever is less.

- c. If appellate counsel was not the trial counsel, additional compensation may be authorized for the reading of the statement of facts at the rate of one (1) hour for each day of trial testimony.
- d. For appeals of death penalty sentences, appellate counsel shall be compensated at an hourly rate of \$175.00 per hour, not to exceed a total amount set by the presiding judge of the court in which the case has been assigned. The total fee shall be set by the presiding judge based upon the prevailing standards throughout the state for compensation of appointed counsel in appeals of death penalty sentences and the complexity or the case.
- e. Upon prior written court approval, counsel shall be reimbursed for reasonable and necessary expenses to appear before an appellate court, including transportation, lodging and meals. Reimbursement shall be at the rates authorized by the Commissioners Court of Midland County, Texas for reimbursement of travel expenses of county employees.

## **12. Extraordinary Circumstances**

This plan recognizes that not all cases fit under the fixed fee schedule and in rare circumstances, additional fees may be necessary. All additional fees are under the sole discretion of the trial judge. Extraordinary circumstances are circumstances where the attorney expends an extraordinary amount of time, attends multiple hearings or in the representation of an exceedingly difficult client so that payment of the flat fee would result in an unfair burden or financial hardship on the attorney. If claiming fees under this paragraph, counsel shall use the attached Attorney's Fee Claim Form. The maximum amount allowable under this provision is \$4,000.00.