

2009

WALKER, MADISON AND LEON COUNTIES

FAIR DEFENSE ACT PLAN

FELONY

WALKER, MADISON & LEON COUNTIES FAIR DEFENSE PLAN

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WALKER, MADISON & LEON COUNTIES FAIR DEFENSE ACT PLAN

STANDARDS AND PROCEDURE

Local law enforcement agencies shall ensure that persons arrested are taken before a Magistrate without unnecessary delay and not more than 48 hours after arrest unless the defendant bonds out of jail prior to said 48 hours. If a person is in jail after being arrested without a warrant and the Magistrate has not determined probable cause within the time limits set forth in Art. 17.033, Texas Code of Criminal Procedure, local law enforcement personnel shall comply with the requirements of that provision.

The Board of Judges for the District Courts shall manage the appointment system. The Board will ensure that all indigents in need of appointed counsel are assigned an attorney in a timely manner and that the attorney establishes contact with the defendant. All applications for felony appointments shall be filed with the Local Administrative Judge. Records will be maintained on all attorneys in the system by the Board of Judges. The Board of Judges will monitor compliance with the requirements and regulations of the Court appointment system. The Board of Judges shall maintain a system to ensure that attorneys on the appointment list are only given those appointments for which they are eligible (based on how the Judges have rated them).

Sec. 1: Attorney Appointment Method

- a. Appointments shall be made using a rotation system following an alphabetical listing of the names of the eligible attorneys. When the end of the list is reached, the process will begin again starting with the first name on the list.
- b. A judge may elect to appoint an attorney, without using the rotation system, to a defendant, when the judge finds it is in the best interests of all parties concerned. The judge making such appointment shall make a finding setting forth the reason for such appointment.
- c. The judges shall maintain a list of attorneys who are eligible to receive court appointments. The Local Administrative Judge will maintain records on disciplinary actions on attorneys by the Judges.
- d. The Local Administrative Judge shall solicit applications for new attorneys twice each year (one month in the spring and fall), with the exception of the Mental Health court appointed attorneys, receive requests from lawyers who wish to handle more serious cases, screen all of these new requests, and assist the Judges in making decisions regarding the attorneys who will be allowed to receive court appointments. The Local Administrative Judge shall solicit applications for new attorneys to the Mental Health court appointed attorney list on an as needed basis.

- e. The Board of Judges shall approve new applicants to the respective court appointment lists by majority vote.
- f. The Board of Judges will conduct studies of the system as needed, plan for future needs, and prepare an annual budget for the court appointed attorney function and related expenses (e.g., investigators, psychiatric evaluations, expert witnesses...).

Sec. 2: Criteria and Procedures for Determining Indigence

- a. The magistrate shall interview defendants in jail after arrest for bond status and screen for the person's ability to hire an attorney. If defendant requests appointed counsel, the Jail Administrator will provide the person with reasonable assistance to fill out the Request for Court Appointed Attorney Form and Indigence Form. The jail staff will fax a copy of the Magistrates Warning Form, Request For Court Appointed Attorney Form and Indigence Form to the Local Administrative Judge if the defendant is charged with a felony only. If the defendant is charged with both a felony and a misdemeanor the forms shall be faxed to the Local Administrative Judge only. If a determination of indigence is made, the Order Appointing Attorney Form will be approved by the District judge or their designee.
- b. Indigence Standards:
 - 1. A defendant is considered indigent if the defendant's household income does not exceed 150% of the Poverty Guidelines as established and revised annually by the U.S. Department of Health and Human Services and the difference between the defendants' monthly net income and reasonable necessary expenditures is less than \$500.
 - 2. 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, or public housing.
 - 3. A defendant is considered indigent if the defendant is currently serving a sentence in a correctional institution, 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, and has no assets or property in excess of the amounts specified above.
 - 4. 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.

If a defendant does not request an appointed attorney, the person will sign and date the Indigence Form at the appropriate top section indicating counsel is not requested.

- c. An arrested person shall be brought before a Magistrate within 48 hours of arrest unless released on bond prior to the expiration of the 48 hours. Persons in custody brought before a Magistrate shall be informed by the Magistrate of the right to request counsel under Article 15.17 Subsection (e) and (f) of the Texas Code of Criminal Procedure. A record will be made of these proceedings and shall be preserved as required by Article 15.17.
- d. If the arrested person does not speak and understand the English language or is deaf, the Magistrate shall ensure that the information and assistance are provided with the assistance of an interpreter consistent with Articles 38.30 and 38.31 of the Code of Criminal Procedure.
- e. The judge making the appointment shall transmit the completed Order Appointing Attorney Form to the appointed attorney and defendant no later than 24 hours after the appointment is made. If a defendant is released on bond prior to appointment of counsel, an attorney shall be appointed during the first court appearance, after eligibility guidelines have been met.

Sec. 3: Appointment of Counsel

The Judges or their designees shall appoint counsel no later than the end of the third working day after the date on which the appointing judge receives the defendant's request for counsel.

Sec. 4: Duties of Newly Appointed Attorney

- a. Court-appointed attorneys will be notified of their appointment by fax. The attorney shall make a reasonable effort to contact the defendant by the end of the first working day after the date of the appointment. Reasonable effort includes letter, fax, phone, or personal visit.
- b. In felony cases, Court appointed attorneys shall visit all appointed clients incarcerated at the County jail in person at their earliest possible time and in no case shall that initial visit be later than three days from notification of assignment.

Sec. 5: General Qualifications for Court Appointed Attorneys

- a. An attorney must have on file with the Local Administrative Judge a completed application approved by the Board of Judges. This form must be notarized. All attorneys on the appointment list must ensure all information on their application is correct and current.
- b. An attorney must be a licensed practicing attorney and a member in good standing of the State Bar of Texas.
- c. An attorney must reside within the territorial jurisdiction of the 12th and 278th Judicial Districts, or if residing in an adjoining county outside the district, shall maintain an office within Walker, Madison or Leon County. An exception to the residency rule may be made due to language skills or other special skills that the Board of Judges decide would be a benefit to the program. The residency requirements do not apply to appeal or mental health categories.

- d. An attorney shall attend any CLE course required by the Board of Judges.
- e. An attorney shall complete a minimum of ten hours of CLE in the area of criminal law and procedure each year. All attorneys on the appointment list must file a certificate with the Local Administrative Judge each year attesting to completion of the required CLE.
- f. An attorney must have a secretary, receptionist, answering service, or a regularly monitored answering machine or voice mail system. An attorney must have a functioning fax machine in their home or office to receive court appointments and notices regarding procedural changes. In addition, an attorney must respond promptly to a phone call from the Court.
- g. An attorney must have the ability to produce typed motions and orders.
- h. An attorney shall notify the Local Administrative Judge 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.

Sec. 6: Qualifications for Mental Health Court Appointed Attorneys

- a. Must have met the General Qualifications.
- b. An attorney applying for mental health court appointments must have served in a county or district attorney's office for at least two years or have practiced criminal defense law on a regular basis for a minimum of two years.
- c. An attorney must have the recommendations of at least two judges who believe the applicant is qualified to represent defendants with mental health issues.
- d. An attorney must have been lead counsel in at least 3 mental health cases (whether misdemeanor or felony) with one of the following issues presented: competency, sanity or court ordered mental health treatment. The styles and cause numbers of these cases must be listed in the appointment application form.
- e. An attorney must have received 3 hours of CLE in mental health criminal issues or receive training within 3 months of placement on the list.
- f. An attorney must be knowledgeable concerning criminal law and the Texas Mental Health Code.

Sec. 7: Qualifications for Felony Court Appointed Attorneys

- a. Must have met the General Qualifications.
- b. An attorney must have served in a county or district attorney's office for at least two years or have practiced criminal defense law on a regular basis for a minimum of two years.
- c. An attorney must have the recommendations of at least two judges who believe the applicant is qualified to represent defendants charged with felony offenses.
- d. An attorney must have been lead counsel in at least 3 misdemeanor jury trials or first or second chair in at least two felony jury trials. The styles and cause numbers of these cases must be listed in the District Courts appointment application form.
- e. To be assigned appeals an attorney must have prior appellate experience.
- f. Movement of an attorney on the felony list to a higher category on the list shall be by letter of request to the Local Administrative Judge and will be reviewed by the District Judges along with new applications twice each year. The letter should include information regarding the meeting of requirements for the appropriate list.

Sec. 8: Felony Criminal Defense Attorney Rating System

- a. Attorneys on the appointment list shall be divided into five categories based on experience and competency. The criminal district judges shall do this evaluation when the applicant applies to be on the list and on a periodic basis thereafter.
 1. Capital- Most experienced. Criteria set by Second Administrative Judicial Region.
 2. Category A – Significant experience with all phases of a criminal practice including aggravated and first degree felony jury trials as lead counsel; very knowledgeable concerning criminal law and procedure, and capable trial lawyer.
 3. Category B – Experience trying misdemeanor and some felony trials to a jury and before the court and second-chairing serious felony cases; experience trying other contested matters such as felony pre-trials and probation revocations; capable and knowledgeable but lacking experience in serious/aggravated felony cases.
 4. Category C – Knowledgeable concerning criminal law and procedure and possessing trial skills but lacking significant felony trial experience. Some jury trial experience in misdemeanors and, at least as second chair, in felonies.
 5. Appellate – Knowledgeable concerning criminal law and procedure and appellate procedure; prior experience analyzing appellate records and filing criminal appeals.

b. Factors Judges consider in their evaluation:

1. Competence, diligence, and skill
2. Membership in State Bar Criminal Law and Procedure Section
3. Experience in District or County Attorney's Office
4. Experience in any county or district attorney's office
5. Years actively engaged in the practice of criminal law
6. Certification as a criminal law specialist
7. Attendance at advanced criminal law courses
8. Special skills

Sec. 9: Distribution of Cases

- a. An attorney will receive one defendant per rotation on the appointment list.
- b. Appointments will be made from a rotating list of the names of eligible attorneys, in alphabetical order.
- c. In felony cases, an attorney may receive an appointment for the highest level of offense for which he/she is qualified and for any lower level offense he/she in which he has chosen to participate.
- d. Assignment of felony cases based on Category:
 1. Capital attorneys will be assigned to all cases.
 2. Category A attorneys will be assigned to all cases (except capital cases).
 3. Category B attorneys will be assigned to all cases in which the maximum sentence does not exceed 20 years.
 4. Category C attorneys will be assigned to state jail felonies and motions to revoke community supervision.
 5. Appellate attorneys will be assigned to appeals.
- e. In mental health cases involving misdemeanors, state jail felonies and 3rd degree felony offenses, attorneys will be appointed from the mental health attorney rotation.

Sec. 10: Suspension or Removal of Attorney from Court Appointment List

- a. General Competence/Review by Judges
 1. Once a year at a time set by the judges all court appointed attorneys shall be reviewed. Each judge shall review each attorney using the criteria deemed appropriate by the individual judge. Below are listed some factors which a judge may wish to consider. Each judge will score each attorney on a scale on which 100 is the highest rating and below 75 is unacceptable.
 2. General Criteria

| | |
|-------------|--|
| Efficiency: | <ol style="list-style-type: none">a. Punctuality - Court appearances, motions, briefs, etc.b. Preparation in all areasc. Efficient use of court time |
|-------------|--|

- | | |
|------------|--|
| Knowledge: | <ul style="list-style-type: none"> a. Knowledge of individual court's rules and procedures b. Knowledge of Criminal Law c. Knowledge of Criminal Procedures d. Knowledge of probation programs, sentencing options, etc. |
| Skill: | <ul style="list-style-type: none"> a. Ability to communicate and conduct business with judges, court staff, and district attorney in a civil and effective manner b. Ability to deal effectively with clients c. Ability to present legal arguments to court d. Ability to examine witnesses, make objections and argue to a jury - trial skills |
| Ethics: | <ul style="list-style-type: none"> a. Follows rules of professional conduct b. Honesty in dealings with court, other lawyers, staff, and clients |

3. All scores will be tallied by the Board of Judges, who shall determine the average score of each attorney. Any attorney whose average score falls below 75 shall be removed from the list. Such a suspension shall be for a minimum period of one year. The judges may vote to allow an attorney to handle court appointed cases on a lower level if appropriate.
4. In the event an attorney's average falls below 80, the judges shall discuss the attorney's level of proficiency and may vote to reduce his classification to a lower level or remove him from the list. Under these circumstances, a majority vote is required to reclassify an attorney.
5. If an attorney is removed from the list or reclassified to a lower level, the Presiding Judge shall schedule a meeting with the Board of Judges and attorney to discuss the reasons for the action. After a period of six months, the attorney may request reinstatement to the previous level or list. The request should be submitted in writing to the Local Administrative Judge. After the request is reviewed, the Judges will make a determination on the request for reinstatement. A majority vote is required to reinstate or return an attorney to the previous level or list.
6. Any attorney whose average score falls below 80, even if not reclassified, may be requested to meet with the Local Administrative Judge to review his performance and receive feedback concerning reasons for his rating.

Specific Incidents of Misconduct

1. If a judge experiences a specific problem with an attorney such as failure to attend court in a punctual manner, failure to timely visit clients, or other unethical or improper conduct, the judge may informally request an investigation by the local administrative judge or undertake his own investigation.

2. If the matter is not resolved to the Judge's satisfaction or the judge determines that the nature or circumstances of the conduct is sufficiently serious, the judge may request that the Board of Judges immediately suspend the attorney from the appointment list.
3. The Local Administrative Judge shall suspend the attorney and immediately notify him/her of said suspension. The notice shall further inform the attorney of the grounds for suspension and that the attorney has 7 days from date of notice to file a written response with the administrator.
4. The local administrative judge shall circulate any response to all judges and the suspension shall be voted on at the next regular meeting. Two or more votes ratify the suspension which shall remain in effect until a majority of judges vote to return the attorney to the list.
5. As a matter of routine practice all unexcused absences from court and failures to visit clients in a timely fashion should be reported to the local administrative judge so his office can maintain a cumulative record for all courts. When the Local Administrative Judge observes a recurring problem with an attorney it should be brought to the Board of Judges attention at the earliest appropriate time. The judges will then take whatever action they deem appropriate, to include written warning or suspension under these rules.

Readmission to List

Any attorney suspended from the list may reapply (after 1 year if suspended at annual review). The reapplication should contain information detailing all steps taken by the attorney to correct deficiencies or improve skills, together with any other information the attorney deems relevant.

At the same time that new applications are received, the Judges will review the appointment list to determine whether attorneys on the list should be removed from the list or reclassified to a lower category. The Judges may remove or reclassify an attorney from the appointment list for the following reasons:

- a. The attorney has failed to satisfy the requirements in these guidelines.
- b. The attorney has failed to effectively represent appointed defendants.
- c. The attorney has failed to respond promptly to communication from the Court.

Sec. 12: Compensation of Appointed Counsel

In consideration of reasonable compensation for court appointed counsel, taking into account necessary overhead costs and availability of qualified attorneys willing to accept the stated rates, the following guidelines shall be used to claim attorney's fees for court appointed counsel in Felony and Misdemeanor Criminal cases effective December 1, 2009, pursuant to the Code of Criminal Procedure, Art. 26.05.

- a. Compensation Rates and Requests for Payment (See Appendix F). In Capital Cases when the death penalty is sought fees will be handled on a case by case basis. The courts reserve the right to vary the guidelines in complex cases.

F. Walker, Madison and Leon County Fee Guidelines for Appointed Counsel in Felony Criminal

- b. Court appointed counsel will be compensated for all necessary expenses, i.e., long distance telephone charges, copying expenses, auto mileage (State rate) outside of the county. All major expenses, such as investigators and expert witnesses, will require written approval by the Court prior to the expense being incurred.
- c. Expenses incurred without prior court approval will not automatically be reimbursed. Such expenses shall be reimbursed if the Court determines that they are reasonably necessary and reasonably incurred upon presentation of a claim for reimbursement.
- d. An attorney whose request for payment is disapproved is entitled to a copy of the judge's findings for approving an amount different from the requested amount. The attorney may appeal the disapproval by filing a motion with the presiding judge of the Second Administrative Judicial Region, as provided in Article 26.05(c) Texas Code of Criminal Procedure.

Plan amended on this the 14th day of December, 2009 and is effective on December 1, 2009.

Kenneth H. Keeling
District Judge
278th Judicial District
Local Administrative Judge

APPENDIX

| | |
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A. MAGISTRATES WARNING

STATE OF TEXAS

COUNTY OF _____ ARREST DATE _____

Before me, the undersigned magistrate of the State of Texas on this day personally appeared

NAME OF DEFENDANT _____

- (1) You are charged with the offense(s) of _____
- (2) You have the right to remain silent.
- (3) You have the right to a statement, and any statement you make may be used in evidence against you.
- (4) You have the right to an examining trial if you are charged with a felony and the Grand Jury has not met on your case.
- (5) You have the right to hire an attorney.
- (6) You have the right to have an attorney present during any interview with peace officers or attorneys representing the State.
- (7) You have the right to terminate the interview at any time.
- (8) If you cannot afford an attorney, you have the right to request the appointment of an attorney.
- (9) Do you have an attorney representing you at this time?
Who? _____
- (10) If you are requesting the appointment of an attorney, you must fill out an Indigence Form; assistance will be provided to you by the Jail Administrator.

Your bail is set at \$ _____ in accordance with the Standing Bond Order of _____ County. If Bond is not set in accordance with the Standing Bond Order explain why not

Probable Cause Found: Yes _____ No _____ Bond Denied _____

Request for Court

Appointed Attorney

On this the ____ day of _____, 20____

I have been advised by the Magistrate/
Court of my right to representation by counsel
in the trial of the charges 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 request that an attorney

Be appointed to represent me.

YES _____ NO _____

X _____
Person Warned

Sworn and subscribed before me the undersigned
Authority on this the ____ day of _____, 20____.
At _____AM/PM

Magistrate Signature

x _____
Person Warned

Magistrate Signature

Name of Interpreter/Language

WITNESS:

Name/Address _____

***Defendant must fill out and attach Indigence Form
if requesting an appointed attorney

***If the defendant is charged with a felony and a
Misdemeanor the jail administrator should fax the
Magistrate's Warning and Indigence Form to the
Local Administrative Judge. If the defendant is
Charged with a misdemeanor only, the forms should
be faxed to the County Court or County Court at Law.

B. REQUEST FOR COURT APPOINTED ATTORNEY*

On this the ____ day of _____ 200__, I have been advised by the Magistrate/Court of my right to representation by counsel in the trial of the charges 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
Mailing Address:

Sworn and subscribed before me the undersigned authority on this the ____ day of _____ 200__.

Judge/Court Clerk/Notary Public

* Defendant must fill out and attach Indigence Form set forth in Appendix C.

** If the defendant is charged with a felony or both a felony and a misdemeanor the jail administrator should fax the magistrates warning, request for court appointed attorney and indigence form to the local administrative judge. If the defendant is charged with a misdemeanor only, the forms should be faxed to the judge of the county court at law.

C. INDIGENCE FORM

I will retain my own attorney: _____ *Date:* _____

Defendant's Signature

To determine eligibility for court appointment of an attorney, the defendant must fill out this form.

Do not continue filling out form if Defendant to retain own attorney.

| Size of family Unit (Members of immediate family that you support financially (List name, age & relationship)) | | |
|--|------|---------------|
| Name: | Age: | Relationship: |
| | | |
| | | |
| | | |

Does applicant have a parent or other close relative who is able to make a voluntary contribution toward attorney's fees? Explain. _____

| Monthly Income | | Necessary Mo. Living Expenses | |
|------------------------|--|---|--|
| Your Salary | | Rent / Mortgage: | |
| Spouse's Salary | | Utilities (gas, electric, etc.) | |
| SSI/SSDI | | Transportation: Make: Model: Year: | |
| AFDC | | Clothes/Food | |
| Social Security Check | | Day Care / Child Care: | |
| Child Support | | Medical Expenses | |
| Other Government Check | | Credit Cards | |
| Other Income | | Court-Ordered Monies: | |
| | | Child Support: | |
| TOTAL INCOME* | | TOTAL NECESSARY EXPENSES* | |

STAFF USE ONLY:

Comments:

| | |
|--------------------------------|---|
| TOTAL MONTHLY INCOME: | |
| TOTAL MONTHLY EXPENSES: | |
| DIFFERENCE (net income) | - |
| | = |

**DEFENDANT MEETS ELIGIBILITY
REQUIREMENTS**

_____ **YES** _____ **NO**

_____ **UNDETERMINED**

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 swear that the above information is true and correct. The information I listed is accurate and I will immediately notify the court of any changes in my financial situation.

**All information is subject to verification. Falsification of information is a criminal offense.*

Signature of Defendant

Date

Sworn to and subscribed before the undersigned Judge, Notary, or Clerk on _____ 200____.

D. 2009 INCOME ELIGIBILITY GUIDELINES
BASIC PROGRAM INCOME GUIDELINES

150% OF POVERTY GUIDELINES

| Household Size | Annual | Monthly |
|------------------------------------|---------------|----------------|
| 1 | \$13,965 | \$1,164 |
| 2 | \$18,735 | \$1,561 |
| 3 | \$23,505 | \$1,959 |
| 4 | \$28,275 | \$2,356 |
| 5 | \$33,045 | \$2,754 |
| 6 | \$37,815 | \$3,151 |
| 7 | \$42,585 | \$3,549 |
| 8 | \$47,355 | \$3,946 |
| For each additional person, Add | + \$4,770 | + \$398 |

E. ORDER APPOINTING ATTORNEY

NO _____

THE STATE OF TEXAS § **IN THE 12th/278th DISTRICT COURT**

VS. § **of**

_____ § _____ **COUNTY, TEXAS**

ORDER APPOINTING ATTORNEY

In the above numbered and entitled cause the court finds the following:

- 1) The defendant has been determined to be indigent and in need of legal services pursuant to the Code of Criminal Procedure, Chapter 26.
- 2) The attorney hereby appointed is duly qualified to represent the defendant.
- 3) The attorney is appointed in compliance with the procedures adopted by the Board of Judges of _____ County or is appointed in a manner which deviates from the general appointment procedures, but with good cause; to wit:

_____ 4) The Court appoints _____, Esq., to represent the defendant in the above cause, which appointment continues through acquittal or denial of motion for new trial.

_____ 5) The Court substitutes _____, Esq., as attorney of record in the above cause, in place of _____, Esq., which appointment continues through acquittal or denial of motion for new trial.

_____ 6) The Court appoints _____, Esq., to represent the defendant on appeal.

THEREFORE, IT IS ORDERED that the above attorney found by the Court to be competent to represent the defendant in this cause, is hereby appointed to represent the defendant in this cause until the case is concluded, or until released by the Court.

**CC: District Clerk
District Attorney
Defendant
Appointed Attorney**

Judge Presiding
Date: _____

F. WALKER, MADISON & LEON COUNTY FEE GUIDELINES

FOR APPOINTED COUNSEL IN FELONY CRIMINAL CASES

EFFECTIVE 12/01/09 FOR SERVICES RENDERED ON OR AFTER THAT DATE

Pursuant to C.C.P. Art. 26.05, the following guidelines shall be used to claim attorney's fees for appointed counsel in criminal cases.

FIXED RATES

These fees will be the standard compensation for the following services:

| | |
|---|----------------|
| Secure release from jail by filing Writ | \$ 50 |
| Case dismissed prior to or after indictment | \$150 |
| Arraignment | \$ 50 |
| Pre-Trial | \$ 50 |
| Plea and Sentence (same setting)* | \$300 |
| Plea and Sentence (separate setting P.S.I.)* | \$350 |
| Plea and Sentence (Boot camp or shock probation)* | \$400 |
| Probation Revocation Hearings | \$250 |
| Motion to Suppress Hearings | Hourly rate |
| Other Writ & Motion Hearings | Hourly rate |
| Appeals (Minimum \$750-Maximum\$3500) | |
| Capital Murder Cases** | ABA Guidelines |

* Add \$100 for multiple cases on pleas. **These schedules do not apply to Capital Murder trials. In general, the ABA Guidelines will be used to compensate counsel in Capital Murder cases.

DAILY RATES

Daily rates are premised on a minimum of six hours spent in court. If less time is spent the fee will be reduced. The Daily Rate fee includes compensation for preparation time.

Non-Jury Trial - \$350.00 & Jury Trial - \$750.00

HOURLY RATES (Minimum \$50per hour-Maximum \$90.00 per hour).

When a fixed rate is provided above an hourly rate claim will ordinarily not be approved. Claims for payment should reflect time expended to the nearest 1/10th of an hour. If an hourly rate is approved, an itemized statement reflecting the date, service performed, and time expended, must be submitted with the request for payment form.

EXPENSES

Court appointed counsel will be compensated for all necessary expenses: i.e., collect or long distance phone calls, copying expenses, auto mileage (at State rate). All major expenses, such as investigators or expert witnesses, will require written approval by the court prior to the expense being incurred.

REQUESTS FOR PAYMENTS

1. Request-for-payment forms shall be submitted at the time the case is disposed of except for trials. Requests for payment after trials should be submitted within five working days of the conclusion of the case.
2. If a case is disposed of prior to indictment or is a writ matter, the request-for-payment form should be submitted to the judge who signed the attorney appointment order.
3. Payment for all of a defendant's cases should be requested on one form.
4. Payments for expenses such as investigators and expert witnesses should be requested on a separate form.

G. Attorney Fee Voucher

| | | | | | | | | | |
|--|---------------------------|-------------------------|-------------|--|--|----------------------------|--|--|--|
| 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 I <input type="checkbox"/> Felony II <input type="checkbox"/> Felony III <input type="checkbox"/> Felony SJ <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 | | | | | | | | | |
| | | | | | | | | 12a. Total Flat Fee | |
| | | | | | | | | \$ _____ | |
| 13. | In Court Services | | | Hours | | Dates | | 13a. Total In Court Compensation. \$ _____ | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | Rate per Hour = | | Total hours | | | | | | |
| 14. | Out of Court Services | | | Hours | | Dates | | 14a. Total Out of Court Compensation. \$ _____ | |
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| | Rate per Hour = | | Total hours | | | | | | |
| 15. | Investigator | | | | | Amount | | 15a. Total Investigator Expenses \$ _____ | |
| | | | | | | | | | |
| | | | | | | | | | |
| 16. | Expert Witness | | | | | Amount | | 16a. Total Expert Witness Expenses \$ _____ | |
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| 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 _____ _____ _____ | | | | | | | | | |

OR DEVIATION FROM FIXED RATE

| Date of Service | Description of Service: | In Court | Out of Court | Rate (Per hour) | Total |
|-----------------|-------------------------|----------|--------------|--------------------|-------|
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Judge's Findings:
