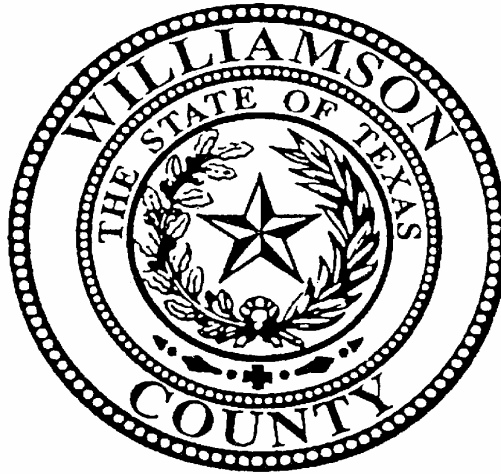


# **REPORT OF WILLIAMSON COUNTY, TEXAS CONCERNING INDIGENT DEFENSE**



## **Joint Adult Felony and Misdemeanor Court Rules 2007 Unified Adult Report of the District and County Courts at Law**

(Includes forms promulgated pursuant to amendments to Art. 1.051 of the Code of Criminal Procedure by the 80<sup>th</sup> Legislature)

*Submitted to:*

**TASK FORCE ON INDIGENT DEFENSE**

*Submitted by:*

**BILLY RAY STUBBLEFIELD**

**JUDGE, 26<sup>TH</sup> JUDICIAL DISTRICT**

**IN HIS CAPACITY AS**

**LOCAL ADMINISTRATIVE JUDGE**

**WILLIAMSON COUNTY, TEXAS**

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# TAB A

Magistrate Procedures to Ensure Timely Appointment of  
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**WILLIAMSON COUNTY, TEXAS  
MAGISTRATE PROCEDURES TO ENSURE TIMELY  
APPOINTMENT OF COUNSEL**

**I. MAGISTRATE PROCEDURES:**

**A. Presentment before a magistrate:**

1. All persons arrested with or without a warrant shall be taken before a magistrate within **24** hours of that person's arrest.
2. All persons arrested in another county on a Williamson County charge for an offense of a Class B misdemeanor or higher shall be presented before a magistrate within **24** hours of that person's arrival at the Williamson County Jail.
3. Any request for a court appointed attorney, made by a person incarcerated in the Williamson County Jail for a Class B offense or higher, shall be brought to the attention of the magistrate or designee within **24** hours of such request being made.

**B. At the time the arrested person is presented to the magistrate, the magistrate shall conduct a hearing in compliance with Articles 1.051 and 15.17, TEXAS CODE OF CRIMINAL PROCEDURE, and shall:**

1. Determine the legality of the person's arrest.
2. Inform the person of the accusation(s) against him/her and of any affidavit filed therewith.
3. Inform the person, in clear language, of:
  - a) The right to retain counsel;
  - b) The right to remain silent;
  - c) The right to have an attorney present during any interview with peace officers or attorneys representing the state;
  - d) The right to terminate the interview at any time;
  - e) The right to have an examining trial;
  - f) That he/she is not required to make a statement and that any statement made by him/her may be used as evidence against him/her; AND
  - g) The right to request the appointment of counsel if the person is indigent and the person cannot afford counsel.

**C. At the time the arrested person is presented to the magistrate, the magistrate shall further:**

1. Inform the person that he/she has the right to request the appointment of a court appointed attorney if he/she cannot afford counsel;
2. If the person does not speak and understand the English language or is deaf, the magistrate shall arrange to have an interpreter present to ensure that the magistrate informs the person in a manner consistent with Articles 38.30 and 38.31, TEXAS CODE OF CRIMINAL PROCEDURE, as appropriate;
3. Ask the person whether he/she wants to request appointment of counsel;
4. Make a record of the magistrate informing the arrested person of his/her right to a court appointed attorney (*see Magistrate Exhibit A*);

5. Inform the arrested person of the procedures for requesting a court appointed attorney (*see Magistrate Exhibits B & C*);
6. Make a record as to whether or not the person requested an attorney be appointed;
7. Ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time; and

**D. Court Appointed Attorney Requests:**

1. If the arrested person advises the magistrate that he/she intends to hire his/her own attorney, the magistrate shall:
    - a) Record this information on the magistrate form (*see Magistrate Exhibit A*);
    - b) Advise the arrested person of the procedures for making a request for a court appointed attorney at any time after the initial magistration should circumstances change and the arrested person subsequently determines that he/she will need a court appointed attorney. (*see Magistrate Exhibit B*)
  2. If the arrested person advises the magistrate that he/she needs a court appointed attorney:
    - a) The magistrate shall record the request on the magistrate's form (*see Magistrate Exhibit A*);
    - b) The magistrate, designee, or the Judge of the Court shall request the arrested person sign under oath a written request substantially in the form set forth in Magistrate Exhibit D (*Application for Court Appointed Attorney*) attached to these procedures.
    - c) The magistrate, designee, or the Judge of the Court shall make inquiry under oath into the arrested person's ability to pay for an attorney;
    - d) The magistrate, designee, or the Judge of the Court shall obtain, under oath, such other information as may be necessary to a determination of the arrested person's ability to pay for an attorney;
    - e) The magistrate, designee, or the Judge of the Court shall assist the arrested person in completing any paperwork necessary to request the appointment of an attorney;
    - f) The magistrate or designee shall transmit, or cause to be transmitted, in person or via facsimile, such request, together with any supporting documentation, to the Court having jurisdiction of the offense for which the arrested person is charge, or to the Court's designee, if one is appointed, no later than **24** hours after the arrested person requests appointment of counsel.
- E. If the arrested person is charged with multiple offenses, the magistrate or designee shall note this on the request form and information transmitted to the Court or the Court's designee. If the arrested person is charged with both misdemeanor and felony offenses, the magistrate or designee shall note this on the attorney request form and information transmitted to the Court or Court's designee.**
- F. If the arrested person does not speak English or is deaf, the magistrate or designee shall arrange to have an interpreter present to ensure that the magistrate or designee informs the arrested person in a manner consistent with Articles 38.30 and 38.21, Texas Code of Criminal Procedure.**

**G. Magistrate forms containing substantially the same language as is exhibited in the forms under Tab G, attached hereto and incorporated herein shall satisfactorily fulfill the record keeping requirements of these rules.**

**H. Arrests for Out-of-County for Williamson County Offenses:**

1. Requests for a court appointed attorney received from another county for persons jailed in a county other than Williamson County for a Williamson County offense shall be treated consistent with the procedures set forth herein.
2. This county shall ensure that a designated contact person or persons, together with necessary contact numbers (*facsimile, telephone, electronic mail, etc.*) be maintained at the Fair Defense Task Force Website.
3. The designee receiving such request shall take steps necessary to see that such requests are processed consistent with these rules.

**I. Arrests for Out-of-County Offenses:**

1. Requests for a court appointed attorney received from a defendant with charges pending in another county shall be treated consistent with the procedures set forth herein.
2. This county shall deliver the request to the contact person or persons designated by that county on the Fair Defense Task Force Website if any such designation has been made by said county.

**J. *See Tab G for Magistrate Forms.***

# **TAB B**

Felony Public Appointment Procedures, Felony Fee Schedule  
and Forms

# **WILLIAMSON COUNTY, TEXAS FELONY PUBLIC APPOINTMENT PROCEDURES AND FEE SCHEDULE**

## **Timely Appointment by Court or Court Designee**

The Court, or the Court's designee, shall appoint counsel to indigent defendants on rotation from the public appointment list within twenty four hours, or as soon as possible, but not later than the end of the first working day after the date on which the Court, or the Court's designee, receives the defendant's request for appointment of counsel. "Working day" means Monday through Friday, except for official holidays.

**I. ASSIGNMENT OF ATTORNEYS. The following method shall be used to assign attorneys for all indigent defendants charged with felonies.**

**A. The Court, or the designee of the Court in which the charging instrument pends, will make appointments from the felony appointments list.**

**B. The appointing judge will:**

1. Receive all requests for appointment of counsel transmitted by the Magistrate pursuant to procedures as provided in "Magistrate Procedures – Timely Appointment of Counsel."
2. Determine whether the defendant requesting appointment of counsel is indigent.
3. Select and appoint appropriate counsel as provided in these "Felony Public Appointment Procedures."
4. Notify all interested parties.
5. Any appointing judge may delegate any of the responsibilities described in section I.B. 1, 3, and 4 to the Court administrator of said court.

**C. The appointing judge or person delegated to make appointment will appoint the lawyer whose name appears next in order on the public appointments list that corresponds to the most serious offense as currently charged unless:**

1. The defendant does not understand English, in which case the next available attorney on the list speaking the defendant's primary language will be appointed.
2. The appointing judge or person delegated to make appointment exercise discretionary authority to appoint one of the attorneys whose name is among the next five names in order on the list, or
3. In unusual circumstances, the person making the appointment finds good cause for appointing any qualified, willing attorney regardless of whether that attorney's name is among the first five names on the appropriate list.
4. When a lawyer is appointed out of order under I.C. 3. above, the lawyer who is appointed out of order will move to the last place in order on that list, and any lawyer who was not appointed will remain at the top of the list until appointed or removed from the list.
5. Each attorney that is appointed under this Procedure is to represent the defendant in the trial court until relieved by the Court.



6. Appellate Counsel: At the conclusion of all proceedings in the trial court, including post-trial motions, if an indigent defendant wishes to file an appeal, the appointing judge or person designated by the Court to appoint counsel will appoint the lawyer whose name appears next in order on the Appellate List of that court, subject to the same rotation provision as those listed for trial attorneys.
- D. **In the event the application for appointment of counsel is denied, the Court will enter an order denying the same on the defendant's application form and cause the defendant to be notified of the denial of the application.**
  - E. **In the event the application for appointment of counsel is granted, the Court will enter an order granting same on the defendant's application for and cause the defendant and the attorney to be notified of the appointment. The attorney will be notified by telephone, facsimile, electronic mail, in person, or by other immediate means of communication.**
  - F. **In the event the Court or the Court's designee determines that the defendant is deaf or does not speak and understand the English language, an effort will be made to appoint an attorney capable of communicating with the defendant in a language understood by the defendant.**
  - G. **Removal of an Appointed Attorney:**
    1. An attorney may be relieved from an appointment upon satisfying the Court that the lawyer has good cause for being relieved and that the client will not be prejudiced.
    2. The Court may, upon finding good cause on the record to replace Appointed Counsel (including the provision of Article 26.052(e) of the Texas Code of Criminal Procedure in a death penalty case) and no prejudice to the defendant will result, replace appointed counsel.
    3. Upon the defendant's request, the Court may, upon finding of good cause:
    4. Replacement counsel shall be selected and appointed immediately following removal of counsel as described in G. (1),(2), or (3) above.

## **II. ATTORNEY FEE SCHEDULE AND COMPENSATION OF APPOINTED ATTORNEYS.**

The fees set forth under Tab H will be paid to court appointed attorneys for time reasonably necessary for adequate representation of the defendant.

**Other services** not specifically set forth therein shall be compensated at the rate of \$50.00 per hour for time spent in or out of court objectively necessary for the adequate representation of the defendant, as determined by the judge of the court in which the representation was provided.

**Requests for payment** by court appointed attorneys will be submitted on a standard form itemizing the services performed. No payment shall be made for such services until the form itemizing services has been submitted to the judge, and the judge has approved the payment.

Attorneys representing indigent defendants shall be reimbursed for reasonable and necessary **expenses** in the manner provided by Articles 26.05 and 26.052(f), (g), and (h) of the Texas Code of Criminal Procedure.

In the event that the court disapproves the requested amount, the judge shall make written findings which state the amount of the payment the judge approves, and each reason for approving an amount different from the requested amount. An attorney whose request for payment is disapproved may appeal the disapproval by filing a motion with the presiding judge of the administrative judicial region.

An attorney may be removed from consideration for appointment after a hearing, if it is determined by a majority of the judges trying criminal cases in the county courts, statutory county courts, or district courts, as appropriate, that a claim for legal services not performed by the attorney has been submitted.

# **TAB C**

Felony Public Appointment Qualifications, Classification of  
Representation Levels, and Application Procedures

**WILLIAMSON COUNTY, TEXAS  
FELONY PUBLIC APPOINTMENT QUALIFICATIONS,  
CLASSIFICATION OF REPRESENTATION LEVELS,  
AND APPLICATION PROCEDURES**

**I. QUALIFICATIONS:**

**A. GENERAL GUIDELINES:**

1. An attorney must be a member in good standing of the State Bar of Texas and the Williamson County Bar Association.
2. An attorney must reside in or maintain his or her principal office in Williamson County or contiguous counties. (A post office address will not satisfy this requirement.)
3. An attorney must have a secretary, receptionist, answering service, or a regularly monitored answering machine.
4. An attorney must have a functioning fax machine available 24 hours a day.
5. An attorney shall have on file with the Local Administrative District Judge (LADJ) a completed, sworn application approved by a majority of the Judges of District Courts trying felony cases.
6. An attorney shall promptly notify, in writing, the LADJ of any changes to the information contained in the application for felony appointments.
7. An attorney shall promptly notify, in writing, the LADJ of any matter that would disqualify the attorney by law, regulation, and rules or under these guidelines from receiving appointments to represent indigent defendants.
8. An attorney shall annually file with the LADJ each year a copy of his/her State Bar of Texas Continuing Legal Education annual reporting form and a certification that he/she is in compliance with these general specific qualifications.
9. An attorney shall meet any additional requirements that may be imposed from time to time by the Judges of the District Courts trying felony cases.

**B. SPECIFIC QUALIFICATIONS-MINIMUM FOR EACH CATEGORY:**

1. **State Jail Felony and Third Degree Felony and Motions to Revoke or Adjudicate Community Supervision thereof, ("B" List):**
  - a) An attorney must have substantial and active participation in five (non-class C) jury trials and 10 pleas of guilty or five (5) contested revocations.
  - b) An attorney must have been licensed to practice for one (1) year, and
  - c) An attorney must demonstrate compliance with CLE requirements, in accord with Williamson County Supplemental Plan (WCSP) for CLE Requirements attached as "WCSP Exhibit A", or
  - d) An attorney may be found by the District Judges trying felony cases in the county to have, by virtue of previous appearances before the said court or by virtue of relevant curriculum vitae, to possess skills adequate to the performance of responsibilities in representing felony defendants of these grades
2. **Second and First Degree Felony and Motions to Revoke or Adjudicate Community Supervision thereof, ("A" List):**

- a) An attorney must have substantial and active participation in 10 criminal (non-class C) jury trials, and
- b) An attorney must have been licensed to practice for one (1) year,
- c) An attorney must demonstrate compliance with CLE requirements, in accord with Williamson County Supplemental Plan (WCSP) for CLE requirements attached as “WCSP Exhibit A”, or
- d) An attorney may be found by the District Judges trying felony cases in the county to have, by virtue of previous appearances before the said courts or by virtue of relevant curriculum vitae, to possess skills adequate to the performance of responsibilities in representing felony defendants of these grades.

**3. Non-Death Capital Murder and Extradition:**

- a) An attorney just be board certified in criminal law by the Texas Board of Legal Specialization or must have substantial and active participation in 10 felony criminal trials within at least the last 10 years, and
- b) An attorney must have completed, in accord with Williamson County Supplemental Plan (WCSP) for CLE requirements attached as “WCSP Exhibit A”, and
- c) An attorney must meet the qualifications of the “A” list, set forth above.

**4. Appeal and Post-Judge Writ:**

- a) An attorney qualified for trial appointment for any level can receive appellate appointments at the same level, or
- b) An attorney must have completed, in accord with Williamson County Supplemental Plan (WCSP) for CLE requirements attached as “WCSP Exhibit A”, or
- c) An attorney may be found by the District Judges trying felony cases in the county to have, by virtue of previous appearances before the said courts or by virtue of relevant curriculum vitae, to possess skills adequate to the performance of responsibilities in representing felony defendants of these grades on appeal or in post-judgment writs.

**5. Appointment of Attorneys to Represent Defendants in Motions to Revoke/Adjudicate Community Supervision:**

As an alternative to strict rotation for appointment of counsel for indigent defendants who are charged in a Motion to Revoke or Adjudicate Community Supervision, the Court may appoint the same counsel representing the defendant at the hearing at which the defendant was placed on Community Supervision.

**6. Capital Murder-Death Penalty Sought:**

To be qualified for appointment as a trial counsel, as appellate counsel, or to apply for writ of certiorari in the United States Supreme Court in death penalty cases, an attorney must be on the list of attorneys approved by the local selection committee of the administrative judicial region for appointment in death penalty cases as provided in Article 26.052 of the Texas Code of Criminal Procedure, and possess the following qualifications:

- a) Counsel must be familiar with the Texas Penal Code, the Texas Code of Criminal Procedure, and the local rules of practice for criminal courts n Williamson County,

Texas and exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases.

- b) For appointment as trial counsel in a death penalty case, counsel must have a minimum of five (5) years experience in the litigation of criminal cases. Counsel shall have tried to a verdict as lead defense counsel a significant number of felony cases, including homicide trials and other trials for offenses punishable as second and first degree felonies or capital felonies. Counsel must have trial experience in the use of and challenges to mental health or forensic expert witnesses; and investigating and presenting mitigating evidence at the penalty phase of a death penalty trial. Counsel must exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases.
- c) For appointment as lead trial counsel, counsel must have previously served as trial counsel in or have presided over, at least one (1) death penalty case that was tried to a verdict.
- d) For appointment as appellate counsel, counsel must have substantial experience in the trial and/or the direct appeal of criminal cases of a serious and complex nature (including murder cases). For appointment as appellate counsel, prior death penalty experience is not required, but it is recommended.
- e) Counsel must have significant and continuous training in the field of criminal law and in the specific area of death penalty litigation. Counsel shall have participated in continuing legal education courses or other training related to criminal defense in death penalty cases. Not later than the second anniversary of the date an attorney is placed on the qualified list for death penalty cases and each year following the second anniversary, the attorney must present proof to the local selection committee that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas. This shall include a course or other form of training relating to the defense of death penalty cases. Failure to comply with this requirement will result in the attorney losing certification for appointment in death penalty cases.
- f) Any attorney who has served as lead counsel in a death penalty case may not be appointed as appellate counsel in that case, unless both the defendant and attorney request the appointment on the record, and the Court finds that good cause exists to make the appointment.

## **II. GROUND FOR REMOVAL FROM FELONY PUBLIC APPOINTMENT LIST:**

### **A. AN ATTORNEY SHALL BE REMOVED FROM THE FELONY PUBLIC APPOINTMENT LIST AND FROM ANY CASE TO WHICH THE ATTORNEY HAS BEEN APPOINTED FOR THE FOLLOWING:**

- 1. Convictions or deferred adjudication for any felony, including controlled substances offenses;
- 2. Conviction or deferred adjudication for any crime of moral turpitude;
- 3. Being under indictment or formally charged with a felony or crime of moral turpitude;
- 4. Intentionally misrepresentation on the application for felony public appointment or request for compensation or re-certification application;
- 5. Failure to meet the general qualifications.

### **B. AN ATTORNEY MAY BE REMOVED FROM THE FELONY PUBLIC APPOINTMENT LIST AND FROM ANY CASE TO WHICH THE ATTORNEY HAS BEEN APPOINTED FOR THE FOLLOWING:**

1. Failing to perform the attorney's duty owed to the defendant;
2. Failing to maintain compliance with each of these felony public appointment guidelines;
3. Upon a finding by a court that he/she provided ineffective assistance of counsel; or
4. For good cause at the discretion of the Judges of the District Courts trying criminal cases.

### III. **REINSTATEMENT:**

An attorney who was removed from the public appointment list for the reasons state in II. A. (1), (2), or (3) above, may be immediately reinstated upon providing proof that the charges were dismissed or that the attorney was acquitted, so long as the attorney meets the qualifications.

### IV. **VOLUNTARY REMOVAL FOR SPECIAL CIRCUMSTANCES:**

Because of special circumstances (A lengthy trial, extended illness, high number of trials scheduled, a death in the family, etc.) the attorney can request in writing that his/her name be temporarily removed from the public appointment list for a specified period of days. At the end of the specified period of days, the attorney will be returned to the public appointment list if he/she is in compliance with the qualifications requirements.

### V. **DISTRIBUTION OF CASES:**

- A. An attorney will receive one defendant per rotation on the felony public appointments list.
- B. An attorney may receive an appointment to represent a defendant at the highest level of offense for which he/she is qualified and for any lower level offense.
- C. Appointments will be made from a rotating list of the names of eligible attorneys, arranged alphabetically.
- D. New attorneys will be added from time to time following approval by a majority vote of District Judges hearing felony criminal matters.

## “WCSP EXHIBIT A”

# WILLIAMSON COUNTY SUPPLEMENTAL PLAN FOR CONTINUING LEGAL EDUCATION REQUIREMENTS

The judges hearing *felony criminal cases* having approved it, the following amendment to the Plan for Appointment of Counsel is adopted and supersedes any previous continuing legal education requirements, approves the plan as follows:

### MINIMUM CONTINUING LEGAL EDUCATION REQUIREMENTS

#### APPOINTMENT IN CRIMINAL CASES:

An attorney who meets the requirements of this rule may be appointed to represent an indigent person arrested for or charged with a crime, if the attorney is otherwise eligible to be appointed under the Appointment of Counsel Plan.

An Attorney may be appointed under this rule only if the attorney:

- (1) Completes a minimum of *six hours* of continuing legal education pertaining to *criminal law* during *each 12 months* reporting period. The first reporting period will begin January 1, 2004, and then on the first day of each reporting period thereafter. Continuing legal education may include activities accredited under Section 4, Article XII, State Bar Rules, self-study, teaching at an accredited continuing legal education activity, attendance at a law school class or legal research-based writing; *or*
- (2) Is currently *certified in criminal law* by the Texas Board of Legal Specialization.

#### REPORTING PERIOD:

- (1) Continuing legal education activity completed within a one-year period immediately preceding an attorney's initial reporting period may be used to meet the educational requirements for the initial year.
- (2) Continuing legal education activity completed during any reporting period in excess of the minimum hour requirement for such period may be applied to the following period's requirement. The carryover provision applies to one year only.
- (3) To be included on the appointment list, each attorney must annually *submit an affidavit* to the county detailing the criminal continuing legal education activities completed in the prior year. *Alternatively, an attorney may annually submit documentation showing the attorney is currently certified as a specialist in criminal law.*

#### EMERGENCY APPOINTMENT:

If no attorney who meets these continuing legal education or board certification requirements is available at the time an attorney must be appointed in a case, another attorney may be appointed. The person making the appointment shall give priority to an attorney with experience in criminal law, respectively.



# **TAB D**

Standards of Indigence for Appointment of Counsel in  
Criminal Cases  
*(Felony and Misdemeanor)*

# **WILLIAMSON COUNTY, TEXAS STANDARDS OF INDIGENCE FOR APPOINTMENT OF COUNSEL IN CRIMINAL CASES**

A defendant desiring a court appointed attorney shall complete a sworn questionnaire and provide documentation if ordered to do so. If a finding of indigency is made, the court shall appoint counsel.

An indigent is any person with a household income at or below 125% of the latest poverty guidelines as established and revised annually by the United States Department of Health and Human Services, and whose liquid assets do not exceed \$5,000.00 for Felony cases, or \$2,500.00 for Misdemeanor cases.

A defendant whose household income exceeds 125% of the latest poverty guidelines may still qualify for a court appointed attorney if the court or its designee determines special circumstances exist, and may consider unusual, excessive, or extraordinary medical expenses, the age or physical infirmity of household members, or other expenses. The court may also consider the complexity of the case, the estimated cost of presenting a legal defense, the fees charged by lawyers in the community for providing defense services in similar cases, whether the defendant has retained counsel in related legal matters (e.g., ALR, forfeiture), and any efforts the defendant has made to retain an attorney.

The court or the court's designee may not consider whether the defendant has posted or is capable of posting bail, except to the extent that it reflects the defendant's financial circumstances as measured by the considerations herein.

Transfer of Property – If the defendant has transferred property after the date of the alleged commission of the offense, the court shall determine the reason for the transfer of property and shall determine whether adequate monetary consideration was received. If adequate monetary consideration was not received, the court shall presume that the transfer was made for the purpose of establishing eligibility unless the defendant furnishes clear and convincing evidence that the transfer was made exclusively for another purpose. If a transfer was made either for the purpose of establishing eligibility or without adequate monetary consideration and the property is re-conveyed to the defendant or an adjustment is made by which the defendant receives full value, the defendant shall, if otherwise qualified, be eligible to receive legal representation at State expense.

Definitions – Terms used to determine eligibility for an indigent's defense services shall have the following meaning:

Household Income: The defendant's household income shall be defined as the defendant's income and the income of all other persons related by birth, marriage or adoption who reside with the defendant. Income shall include the total case receipts, before taxes, from all resources, including money wages and the net receipts from non-farm or farm self-employment. Further, income shall include regular payments from a governmental income maintenance program, alimony, child support, public or private pensions, annuities, and income from dividends, interest, rents royalties or periodic receipts from estate funds, veteran's benefits, training stipends, alimony child support and military family allotments or other regular support from an absent family member or governmental income

maintenance program (AFDC, SSI, unemployment compensation, or state or county general assistance or home relief), food or rent received in lieu of wages, money which is received from tax refunds, gifts, one-time insurance payments or compensation for injury, non-cash benefits (food stamps, etc.).

Liquid Assets: Liquid assets shall include but are not limited to cash, savings and checking accounts, stocks, bonds, certificates of deposit, and equity in real and personal property, as well as any interest in retirement accounts.

The guidelines established herein for the appointment of counsel also apply to the reimbursement of expenses incurred for the purposes of investigation or expert testimony, as approved by the court.

A defendant may be required to reimburse the County in whole or in part the cost of legal services provided as set forth in Article 26.05, Texas Code of Criminal Procedure. If a defendant is convicted or placed on deferred adjudication, the court may impose as a condition of probation repayment of all or a portion of the County's cost for providing legal representation if it does not impose a payment to be made through the Probation Department to the Fund for Indigent Defense of Williamson County.

# **TAB E**

Appointment of Counsel for Indigent Defendants in  
Misdemeanor Cases

**TEXAS FAIR DEFENSE ACT  
APPOINTMENT OF COUNSEL  
FOR INDIGENT DEFENDANTS  
IN MISDEMEANOR CASES**

**II. MISDEMEANOR PROCEDURES:**

**A. Arrest for In-County Offenses:**

1. In all cases in which a person is charged with a misdemeanor offense and that individual has been confined in the Williamson County jail, the arrested person shall be taken before the jail magistrate no later than 24 hours after the person is arrested. The person shall be informed of the person's right to request appointment of counsel and the procedures for requesting such counsel as set forth in the Magistrate's Procedures for Williamson County.
2. In all cases where an arrested person charged only with a misdemeanor offense has been brought before the jail magistrate and has requested court appointed counsel, the jail magistrate shall inquire into such person's indigent status according to the procedures set forth under the Magistrate's Procedures for Williamson County.
3. The magistrate or its designee shall no later than 24 hours after the person arrested requests appointment of counsel, transmit or deliver the person's request for counsel to the Judge of the court where the case is assigned. If that judge or a judge assigned as a visiting judge to that court is not available, the request may be presented to an assigned visiting Judge in the court, the request may be presented to any available misdemeanor court judge or, if no misdemeanor court Judge is available, to any available felony court Judge.
4. The Judge to whom the request for court appointed counsel is presented shall review the request and shall either appoint counsel or notify the personal requesting the appointment of counsel that the request has been denied no later than 5:00 p.m. of the first business day following the day the request was presented to the Judge. The Judge may request written documentation from the person to verify the information set forth in the form completed by the defendant.
5. If the Judge denied the request for court appointed counsel, the arrested person, if requested, shall be entitled to present additional evidence or argument in support of the request for appointment of counsel to the Judge of the court where the person's case is assigned at the person's first court appearance.
6. If a person requests court appointed counsel through the procedures set forth herein and is thereafter released on bond, the request may be considered by the Judge at the person's first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.
7. In the case of an arrested person who is charged with both a misdemeanor and a felony case, such person shall automatically be appointed legal counsel for the misdemeanor case if legal counsel is appointed on the felony case. The misdemeanor court Judge shall appoint the same attorney that the felony court Judge appointed from the felony

appointment list unless the same legal counsel is not available to accept the appointment or for good cause shown. If the person has requested court appointed counsel in the felony case and such request has been denied, the person may still request appointed counsel for the misdemeanor case by submitting the written request as set forth in these procedures.

8. If a person's request for court appointed counsel is denied, the court will enter an order denying appointment of counsel and cause the defendant to be notified. If the request is denied, the court in which the person's case is assigned shall provide the person reasonable time to retain private counsel in their case.
9. A person may request court appointed counsel at the person's first court appearance if said defendant has not previously requested appointment of counsel at the proceeding before the magistrate pursuant to Article 15.17, as set forth in Tab A, waived the proceeding before the magistrate pursuant to Article 15.17 or if the previous request was denied by the court.
10. In the Judge's discretion, the defendant may request court appointed counsel at any other time allowed by the trial court.
11. The selection and appointment of counsel shall be in accordance with Article 26.04 of the Texas Code of Criminal Procedure and pursuant to the procedures set forth herein.
12. The counsel appointment list for misdemeanors shall include all attorneys who have applied and been approved by the county court at law Judges and who meet the qualifications for appointment as may, from time to time, be adopted by the Judges.
13. When a finding of indigency has been made by the court, legal counsel shall be appointed by the court or the court's designee on rotation from the appointment list as soon as possible but not later than the end of the first working day after the court made the finding of indigency. "Working day" means Monday through Friday, except for official Williamson County holidays or closings.
14. The court or its designee shall appoint the name of the attorney whose name appears next in order on the appointment list unless:
  - a. The defendant does not understand the English language, in which case the next available attorney on the list speaking the defendant's primary language will be appointed.
  - b. The court or its designee exercises discretionary authority to appoint one of the attorneys whose name is among the next five in order on the list;
  - c. In unusual circumstances, the court or its designee finds good cause for appointing any qualified, willing attorney regardless of whether that attorney's name is among the first five names on the appointment list.
  - d. When an attorney is appointed out of order under the above stated provisions, that attorney's name will be moved to the last place in order on the list.
  - e. Each attorney appointed under this procedure shall represent the defendant until final disposition of the case or until released by the Court.
15. If the request for a court appointed counsel is granted, the Court will enter an order granting the request and provide notice to the defendant and attorney of the appointment.

The attorney may be notified by telephone, facsimile, electronic mail, in person or by other immediate means of communication.

16. The misdemeanor courts or its designee may maintain a rotating list of attorneys eligible to receive cases from the appointment list to be used in appointing attorneys for individuals in jail at the court's arraignment docket or jail call. Appointments will be made on a rotating basis.

**B. Arrests for Out-of-County for Williamson County Offenses:**

1. Requests for a court appointed attorney received from another county for persons jailed in a county other than Williamson County for a Williamson County offense shall be treated consistent with the procedures set forth herein.
2. This county shall ensure that a designated contact person or persons, together with necessary contact numbers (*facsimile, telephone, electronic mail, etc.*) be maintained at the Fair Defense Task Force Website.
3. The designee receiving such request shall take steps necessary to see that such requests are processed consistent with these rules.

**C. Arrests for Out-of-County Offenses:**

1. Requests for a court appointed attorney received from a defendant with charges pending in another county shall be treated consistent with the procedures set forth herein.
2. This county shall deliver the request to the contact person or persons designated by that county on the Fair Defense Task Force Website if any such designation has been made by said county.

# **TAB F**

Qualifications for Attorneys Seeking Appointments in  
Misdemeanor Cases



## **QUALIFICATIONS FOR ATTORNEYS SEEKING MISDEMEANOR APPOINTMENTS**

- (1) The attorney must be a member in good standing of the State Bar of Texas.
- (2) The attorney must have a functioning fax machine available 24 hours a day.
- (3) The attorney must have the ability to produce typed motions or orders.
- (4) The attorney must have completed and filed an application for misdemeanor court appointments with each misdemeanor court judge.
- (5) New attorneys will be added to the end of the list of approved attorneys as it exists at the time the new attorneys are added.
- (6) Attorneys may be removed from the misdemeanor court appointment list and from any case to which the attorney has been appointed if the attorney becomes ineligible for such appointment under these rules; has failed to perform the attorney's duty owed to a defendant; is under indictment or other legal accusation, or has been convicted, of any felony, theft, or a crime of moral turpitude; or for good cause at the discretion of the misdemeanor court judges.
- (7) An attorney must demonstrate compliance with CLE requirements in accord with Williamson County Supplemental Plan for Continuing Legal Education Requirements, attached as "WCSP Exhibit B."

## “WCSP EXHIBIT B”

# WILLIAMSON COUNTY SUPPLEMENTAL PLAN FOR CONTINUING LEGAL EDUCATION REQUIREMENTS

The judges hearing *misdemeanor criminal cases* having approved it, the following amendment to the Plan for Appointment of Counsel is adopted and supersedes any previous continuing legal education requirements, approves the plan as follows:

### MINIMUM CONTINUING LEGAL EDUCATION REQUIREMENTS

#### APPOINTMENT IN CRIMINAL CASES:

An attorney who meets the requirements of this rule may be appointed to represent an indigent person arrested for or charged with a crime, if the attorney is otherwise eligible to be appointed under the Appointment of Counsel Plan.

An Attorney may be appointed under this rule only if the attorney:

1. Completes a minimum of *six hours* of continuing legal education pertaining to *criminal law* during *each 12 months* reporting period. The first reporting period will begin January 1, 2004, and then on the first day of each reporting period thereafter. Continuing legal education may include activities accredited under Section 4, Article XII, State Bar Rules, self-study, teaching at an accredited continuing legal education activity, attendance at a law school class or legal research-based writing; *or*
2. Is currently *certified in criminal law* by the Texas Board of Legal Specialization.

#### REPORTING PERIOD:

1. Continuing legal education activity completed within a one-year period immediately preceding an attorney's initial reporting period may be used to meet the educational requirements for the initial year.
2. Continuing legal education activity completed during any reporting period in excess of the minimum hour requirement for such period may be applied to the following period's requirement. The carryover provision applies to one year only.
3. To be included on the appointment list, each attorney must annually *submit an affidavit* to the county detailing the criminal continuing legal education activities completed in the prior year. *Alternatively, an attorney may annually submit documentation showing the attorney is currently certified as a specialist in criminal law.*

#### EMERGENCY APPOINTMENT:

If no attorney who meets these continuing legal education or board certification requirements is available at the time an attorney must be appointed in a case, another attorney may be appointed. The person making the appointment shall give priority to an attorney with experience in criminal law, respectively.

# **TAB G**

## Forms

- a. Magistrate Forms:
  - i. *Magistrate Exhibit A* – Article 15.17 Magistration Form
  - ii. *Magistrate Exhibit B* – Information About Your Right to a Court Appointed Attorney (125% Poverty Guidelines to be Adjusted Periodically)
  - iii. *Magistrate Exhibit C* – Inmate Request Form
- b. Affidavit for Court-Appointed Attorney and Financial Statement
- c. Application for Public Appointments to Represent Indigent Defendants
- d. Defendant's Financial Statement (for in-court use)
- e. Order Appointing Attorney
- f. Waiver of Attorney
- g. The Dangers and Disadvantages of Self-Representation
- h. Defendant's Waiver of Ten (10) Days to Prepare

# Magistrate Forms

“MAGISTRATE EXHIBIT A”



THE STATE OF TEXAS  
WILLIAMSON COUNTY

NOTIFY  
☐ JP - 1 ☐ JP - 3  
☐ JP - 2 ☐ JP - 4  
☐ Municipal Ct.

FAMILY VIOLENCE OFFENSE  
☐ Further Detention \_\_\_\_\_ hours  
☐ EPO Issued \_\_\_\_\_ days

DISPOSITION

☐ Commitment  
☐ Released without Bail, Class C Misd.  
☐ Personal Bond Approved  
☐ Bond Conditions  
☐ Other \_\_\_\_\_

☐ ARREST W/O WARRANT/AFFIDAVIT FILED

CHG. \_\_\_\_\_ WARRANT # \_\_\_\_\_ COURT \_\_\_\_\_ BAIL \$ \_\_\_\_\_

☐ ARREST W/O WARRANT/AFFIDAVIT FILED

CHG. \_\_\_\_\_ WARRANT # \_\_\_\_\_ COURT \_\_\_\_\_ BAIL \$ \_\_\_\_\_

☐ ARREST W/O WARRANT/AFFIDAVIT FILED

CHG. \_\_\_\_\_ WARRANT # \_\_\_\_\_ COURT \_\_\_\_\_ BAIL \$ \_\_\_\_\_

☐ ARREST W/O WARRANT/AFFIDAVIT FILED

CHG. \_\_\_\_\_ WARRANT # \_\_\_\_\_ COURT \_\_\_\_\_ BAIL \$ \_\_\_\_\_

On \_\_\_\_\_ / \_\_\_\_\_ / 200\_\_\_\_\_ at \_\_\_\_\_ A.M. / P.M. \_\_\_\_\_ DOB \_\_\_\_\_

Defendant, appeared before me. I informed the said Defendant in clear language of the accusation(s) against the Defendant and of any affidavit filed therewith, and I further informed the Defendant as follows as required by Article 15.17, Code of Criminal Procedure:

1. You have the right to retain counsel;
2. You have the right to remain silent;
3. You have the right to have an attorney present during any interview with peace officers or attorneys representing the state;
4. You have the right to terminate the interview at any time;
5. You have the right to request the appointment of counsel if you are indigent and cannot afford counsel;
6. If you are charged with a felony offense, you have the right to have an examining trial;
7. You are not required to make a statement and any statement made by you may be used against you;

The Defendant advised the Magistrate that he / she is :

\_\_\_\_\_ a citizen of the United States of America \_\_\_\_\_ Refused to state citizenship

\_\_\_\_\_ a citizen of \_\_\_\_\_, a (mandatory) (discretionary) notification country. You are entitled to have consular officials from your country contacted regarding your arrest. Your consulate may be able to help you obtain legal counsel, contact your family and visit you in detention. If you want us to notify your consulate officials, you can request this notification now or at any time in the future.

Do you want us to notify your country's consular officials: Yes \_\_\_\_\_ No \_\_\_\_\_

\_\_\_\_\_ Requires Mandatory Notification

ATTORNEY INFORMATION: On the above stated date, Defendant was asked by the Magistrate whether he / she was going to retain an attorney at his / her own expense or whether Defendant would need an attorney appointed to represent him / her in respect to the charges pending against him / her. Defendant advised the Magistrate that he / she:

\_\_\_\_\_ (WILL HIRE AN ATTORNEY OR PROVIDE HIS / HER OWN REPRESENTATION)  
\_\_\_\_\_ (REQUESTED THE APPOINTMENT OF COUNSEL)

in respect to these charges. \_\_\_\_\_ initials

\_\_\_\_\_ Out of County Charges

\_\_\_\_\_ Class C offenses only

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

IN WITNESS WHEREOF, I have subscribed my name on the date indicated above.

MAGISTRATE

I hereby acknowledge that the foregoing warnings were administered to me in clear language and I fully understand the meaning of each. I understand that if I change my mind regarding my ability to hire an attorney, I can request that an attorney be appointed subsequent to this date. The Magistrate explained to me the local procedures for requesting an appointed attorney.

INTERPRETER, IF USED

WITNESS

WHITE - COURT

YELLOW - MAGISTRATE

BLUE - DEFENDANT

PINK - JAIL

GOLD - COMMITMENT

DEFENDANT

## “MAGISTRATE EXHIBIT B”

### “INFORMATION ABOUT YOUR RIGHT TO A COURT APPOINTED ATTORNEY

#### HOW DO I ASK FOR A COURT APPOINTED ATTORNEY?

1. You can request the appointment of an attorney at the time you meet with the Magistrate shortly after your arrest. If, at this time, you do not know whether you will be able to hire your own attorney or not, you may wait and make this decision at a later time.
2. If you choose to wait, and it turns out you are unable to hire your own attorney, you can request a court appointed attorney at any subsequent court appearance.
3. If you are unable to make bail, you can ask to see the magistrate or the indigent defense coordinator to request a court appointed attorney at any time while you are in jail.

#### HOW DO I KNOW WHETHER OR NOT I AM ELIGIBLE FOR A COURT APPOINTED ATTORNEY?

1. You will have to provide the magistrate/indigent defense coordinator or the trial court judge with information pertaining to your financial situation under oath.
2. The trial court judge will make the decision as to your eligibility for a court appointed attorney.
3. Many factors are considered in this decision. In general if you and your family's income falls under the following income ranges you may be eligible for a court appointed attorney.

PERSONS IN FAMILY UNIT	
1	\$ 11,963
2	\$ 16,038
3	\$ 20,113
4	\$ 24,188
5	\$ 26,263
6	\$32,338
7	\$36,413
8	\$ 40,488
For each additional Person add	\$ 4,075

4. Other factors, such as savings, bank account balances, investments and the existence of property which you may be able to sale or borrow against may bear on your eligibility for a court appointed attorney. To be eligible for a court appointed attorney, your available liquid assets need to be under \$2,500 for a misdemeanor offense and under \$5,000 for a felony offense.
5. Additionally, you may be entitled to a court appointed attorney if you and your family are currently experiencing extraordinary difficulties such as medical emergencies, divorce, recent job loss or reduction in income or the recent death of a person who contributes to your family's financial needs.
6. If you are released from jail on bail and unable to hire your own attorney, you should bring copies of any documents you believe support your eligibility for a court appointed attorney to court with you. Such documents may include, but are not limited to, payroll stubs, tax returns, and proof that you are receiving public assistance such as food stamps, SSI, etc.

#### IS THE ATTORNEY FREE?

In some cases you may be required to reimburse the county for the expense of your court appointed attorney.

#### WILL THE ATTORNEY ASSIST ME ON CASES PENDING IN OTHER COUNTIES?

No, your attorney will only be required to assist you on Class A and Class B misdemeanors and felony charges pending in Williamson County. If you have charges pending against you in other counties, you will have to make a request to those counties for the assistance of counsel on those charges.

#### DO I HAVE TO HAVE AN ATTORNEY?

Texas law, and local rules established by the County Court at Law Judges, permit you to represent yourself in misdemeanor cases. There are disadvantages and pitfalls to representing yourself. It is always a good idea to consult with an attorney regarding any legal issue which you face. However, with the properly executed waivers you will be allowed to handle your misdemeanor case(s) without the assistance of counsel.

**“MAGISTRATE EXHIBIT C”**

**INMATE REQUEST FORM  
FOR COURT APPOINTED ATTORNEY**

**Use this form if you remain incarcerated and need to request a court appointed attorney. Complete and present this form to any corrections officer/jail staff member to request to see the magistrate or indigent defense coordinator about a court appointed attorney.**

**If you are released on bail and cannot afford an attorney, you may request that the trial court appoint an attorney when you appear before that court. You will be asked to provide your financial information on an “Affidavit for Court Appointed Attorney” when you come to Court. Bring any supporting documents you might have such as payroll stubs or proof that you are receiving public assistance of any kind with you to Court.**

DATE: \_\_\_\_\_

DEFENDANT’S NAME: \_\_\_\_\_

SO#: \_\_\_\_\_ DOB: \_\_\_\_\_ HOUSING: \_\_\_\_\_

I, the undersigned defendant, in accordance with the Texas code of Criminal Procedure, request the appointment of counsel for representation in my forthcoming criminal proceeding(s). I currently have no form of legal representation. I am indigent and have no means of hiring my own attorney.

Defendant’s signature: \_\_\_\_\_

Received by: \_\_\_\_\_  
Officer/Staff Date and Time

Date and time delivered to Magistrate Office or Court Liaison Officer: \_\_\_\_\_

FOR JAIL STAFF:

**THIS FORM MUST BE DELIVERED TO THE MAGISTRATE OFFICE  
WITHIN 24 HOURS OF RECIEPT BY ANY JAIL STAFF PERSONNEL**

=====

Affidavit for Court-Appointed  
Attorney and Financial Statement



CAUSE NO(S). \_\_\_\_\_

STATE OF TEXAS

\* IN THE (COUNTY) (DISTRICT)

VS.

\* COURT OF

\* WILLIAMSON COUNTY, TEXAS

DOB \_\_\_\_\_ ARREST \_\_\_\_\_

DATE: \_\_\_\_\_

OFFENSE (S): \_\_\_\_\_

AFFIDAVIT FOR COURT APPOINTED ATTORNEY  
AND FINANCIAL STATEMENT

I am the above named Defendant. I have been advised by a Magistrate of Williamson County, Texas, of my right to representation by counsel in the trial of the above referenced charge(s). I am without means to employ counsel of my own choosing and I hereby request the Court to appoint an attorney to represent me. I understand that the information I provide on this form, including information completed on the reverse side of this form, will be used to determine my eligibility for a court appoint attorney. I understand the information may be verified by the court. If it is later determined that the information I am providing is not true, I may be prosecuted under Chapter 37 of the Texas Penal Code for Perjury.

*(Defendant to complete information in box below and on reverse side of this form)*

I am currently incarcerated ( <u>YES</u> ) ( <u>NO</u> ).		I ( <u>have</u> ) ( <u>do not have</u> ) income while in jail.	
I am ( <u>married</u> ) ( <u>single</u> ) ( <u>separated</u> ).		Telephone: _____	
I ( <u>rent</u> ) ( <u>own</u> ) ( <u>other</u> ) my home. <b>Explain, if "other":</b>			
Address: _____			
I am ( <u>EMPLOYED</u> ) ( <u>UNEMPLOYED</u> ).		Monthly Income: \$ _____	
Date of last employment/income was: _____			
Name, address and phone number of each employer: _____			
Spouse's Income: \$ _____		Family Size (spouse and dependants): _____	
Cash available: Savings: \$ _____		Checking: \$ _____ Other: \$ _____	
I ( <u>HAVE</u> ) ( <u>DO NOT HAVE</u> ) other assets.			
Other factors: _____			
I ( <u>HAVE</u> ) / ( <u>HAVE NOT</u> ) completed the information on the reverse side of this form.			

\_\_\_\_\_  
DEFENDANT

SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_.

Interpreter: \_\_\_\_\_

\_\_\_\_\_  
MAGISTRATE /COURT CLERK / NOTARY

COURT NOTICE

The defendant ( \_\_\_\_\_ has not ) ( \_\_\_\_\_ has been ) admonished to appear with his/her attorney for a first court date. A copy of the "Notice of Court " ( \_\_\_\_\_ IS ) ( \_\_\_\_\_ IS NOT ) attached hereto).

**Size of Family Unit** (Members of family that you support financially)

Name	Age	Relationship

Monthly Income	US\$	Necessary Monthly Living Expenses	US\$
Your Salary		Rent/Mortgage	
Spouse's Salary		Utilities (gas, electric, etc)	
SSI/SSDI		Transportation	
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 NECES. EXPENSES	

Real estate: Home:_____	Equity: \$_____
Other:_____	\$_____
Automobiles/Boats: Make/Model/Year	Value: \$_____
1. _____	\$_____
2. _____	\$_____
3. _____	\$_____
Stocks/Bonds/Investments:	
Bank Accounts: Bank Name/Type of Account	
1. _____	\$_____
2. _____	\$_____
3 _____	\$_____
Other	

Application for Public  
Appointments to Represent  
Indigent Defendants

**Application for Public Appointment  
To Represent Indigent Defendants in the  
Williamson County Courts**

Attorney Contact Information

Last name: \_\_\_\_\_

First name: \_\_\_\_\_

State Bar Card #: \_\_\_\_\_

Physical address (not a post office box):

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

Mailing address:

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

Telephone #: \_\_\_\_\_

Fax: \_\_\_\_\_

Pager #: \_\_\_\_\_

Cellular Phone #: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Please Circle: Yes or No

Yes   No   1. Are you currently in good standing with the State Bar of Texas and the Williamson County Bar Association?

Yes   No   2. Are you currently under indictment or charged for a criminal offense other than a class C traffic offenses?

Yes   No   3. Are you certified by the Texas Board of Legal Specialization in criminal law?

Yes No 4. Are you a member of the State Bar College?

Yes No 5. Have you ever been sanctioned by the State Bar Grievance Committee?

Yes No 6. Do you have an appeal pending of any State Bar sanction?

Yes No 7. Have you ever been sanctioned for failure to appear before a court?

Yes No 8. Has a court ever found that you have provided ineffective assistance of counsel?

Yes No 9. Have you ever been convicted or placed on deferred adjudication for any offense other than a class C offense?

\_\_\_\_\_ 10. What percentage of your practice is criminal law?

\_\_\_\_\_ 11. Approximately how many criminal cases have you tried to conclusion before a jury? (include hung juries, but exclude agreed competency hearings)

\_\_\_\_\_ 12. Of the trials in Question 11, how many were felony cases?

\_\_\_\_\_ 13. Of the trials in Question 11, how many were misdemeanors?

\_\_\_\_\_ 14. Approximately how many appeals have you pursued in which you authored the brief (excluding subcontracted briefs)?

Yes No 15. Do you have unique training or skill in mental health cases?

Yes No 16. Do you have training or skill as a deaf interpreter?

Yes No 17. Are you fluent in any other language other than English?

If so, please list: \_\_\_\_\_

Yes No 18. Do you represent any municipality as a judge or attorney?

If so, please list: \_\_\_\_\_

Yes No 19. Do you have any legal conflicts that would prohibit you from taking appointments? If so, please state: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I am applying to be considered for the following appointments: (check whatever applies)

- \_\_\_\_\_ 1. Misdemeanor and Petitions to Revoke or Adjudicate.
- \_\_\_\_\_ 2. State Jail Felony and Third Degree Felony and Petitions to Revoke or Adjudicate.
- \_\_\_\_\_ 3. First and Second Degree Felony and Petitions to Revoke or Adjudicate.
- \_\_\_\_\_ 4. Non-Death Capital Murder and Extradition.
- \_\_\_\_\_ 5. Appeal and Post-Judgment writ.
- \_\_\_\_\_ 6. Capital Murder. Death penalty sought.

I, \_\_\_\_\_, the undersigned attorney, hereby state under oath that all of the above information is correct, that I have read and understand the qualifications set out in the Public Appointment Qualifications and that I meet the qualifications for the appointment level which I seek. I understand that I have a duty to promptly notify the Local Administrative District Judge of any matter that may make me ineligible to receive appointments under the applicable qualifications, and to notify the Local Administrative District Judge of any changes to the information contained in this application. I understand that I may be removed from the appointment list for failure to meet any qualifications stated in the Public Appointment Qualifications for the appointment level which I seek.

\_\_\_\_\_  
Attorney

ON this date personally appeared before me, \_\_\_\_\_, who after being properly identified and placed under oath swore before me that all of the information state on the forgoing Application for Felony Public Appointments is the truth.

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

Office of person taking oath:

\_\_\_\_\_  
Williamson County, Texas.

## **Required Attachment**

1. Your most recent reporting year CLE report from the State Bar of Texas.
2. If you have been sanctioned by the Bar Grievance Committee in the last 10 years, attach the decision(s) by the Committee and, if desired, a written explanation.
3. If you have been sanctioned for failure to appear before a Court in the last 10 years, attach any applicable court documents and, if desired, a written explanation.
4. If a Court has found that you have provided ineffective assistance of counsel in the last 10 years, attach any applicable documents and, if desired, a written explanation.
5. If you have ever been convicted of or placed on deferred adjudication for any offense other than a class C level, attach copies of all final orders (or those deferring adjudication) and judgments.
6. If you are applying for appeals, list the appeals and case numbers in which you authored the briefs.
7. If you are applying for appointments, list the requisite trials, contested Revocations and pleas of guilty by case name and number for the level at which you seek appointments.

# Defendant's Financial Statement

*(for in-court use)*



Cause No. \_\_\_\_\_

THE STATE OF TEXAS

V.

\*  
\*  
\*  
\*  
\*

\_\_\_\_\_  
\_\_\_\_\_  
WILLIAMSON COUNTY, TEXAS

DEFENDANT'S FINANCIAL STATEMENT

INCOME AND ASSETS

FULL NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

PHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_ CELL \_\_\_\_\_

NAMES OF ALL OTHER PERSONS IN HOUSEHOLD (AND AGES AND RELATIONSHIP TO YOU)  
\_\_\_\_\_

ARE YOU EMPLOYED? YES \_\_\_ NO \_\_\_ EMPLOYER'S NAME: \_\_\_\_\_

EMPLOYER'S ADDRESS AND PHONE: \_\_\_\_\_  
\_\_\_\_\_

SUPERVISOR'S NAME: \_\_\_\_\_  
\_\_\_\_\_

HOW LONG AT THIS JOB? \_\_\_\_\_ WHAT IS YOUR TOTAL PAY PER MONTH: \_\_\_\_\_

DO YOU HAVE MORE THAN ONE JOB: \_\_\_\_\_ IF SO, LIST ALL ADDITIONAL JOBS AND INCOME: \_\_\_\_\_  
\_\_\_\_\_

DO YOU OR ANYONE IN YOUR HOUSEHOLD HAVE ANY OTHER SOURCES OF INCOME (INCLUDING GOVERNMENT ASSISTANCE): \_\_\_\_\_ IF SO, LIST: \_\_\_\_\_  
\_\_\_\_\_

DO YOU HAVE A BANK ACCOUNT: \_\_\_\_\_ CURRENT BALANCE: \_\_\_\_\_

DO YOU OWN YOUR OWN HOME: \_\_\_\_\_ IF YES, LIST ADDRESS & VALUE \_\_\_\_\_  
\_\_\_\_\_

LIST ALL OTHER ASSETS AND VALUE (INCLUDING REAL ESTATE, VEHICLES, BOATS, STOCKS, RETIREMENT ACCOUNTS, CASH, JEWELRY, AND THE CONTENTS OF SAFETY DEPOSIT BOXES) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DOES ANYONE OWE YOU MONEY? \_\_\_\_\_ IF YES, DESCRIBE \_\_\_\_\_

EXPENSES

LIST ALL YOUR EXPENSES ON A MONTHLY BASIS (INCLUDING: RENT, HOUSE  
PAYMENT, CAR PAYMENT, FOOD, CHILD CARE, INSURANCE)

_____	_____
_____	_____
_____	_____

HAVE YOU TRANSFERRED ANY ASSETS TO OTHER PERSONS SINCE THE DATE OF THE  
ALLEGED OFFENSE? \_\_\_\_\_ IF YES, DESCRIBE \_\_\_\_\_

BY SIGNING MY NAME BELOW, I SWEAR THAT ALL OF THE ABOVE  
INFORMATION ABOUT MY FINANCIAL CONDITION IS CURRENT, ACCURATE AND  
TRUE.

\_\_\_\_\_  
DEFENDANT'S SIGNATURE

VERIFICATION

BEFOR ME, THE UNDERSIGNED AUTHORITY PERSONALLY APPEARED THE  
ABOVE-NAMED DEFENDANT WHO SIGNED THIS DOCUMENT IN MY PRESENCE AND  
WHO SWORE THAT THE INFORMATION HE/SHE PROVIDED IS TRUE AND CORRECT.

DATE: \_\_\_\_\_

\_\_\_\_\_  
WILLIAMSON COUNTY, TEXAS

# Order Appointing Attorney

Cause No(s). \_\_\_\_\_

STATE OF TEXAS

\* IN THE \_\_\_\_\_ DISTRICT

\*

VS.

\* COURT OF

\*

\* WILLIAMSON COUNTY, TEXAS

OFFENSE (S): \_\_\_\_\_

ORDER APPOINTING ATTORNEY  
AND  
NOTICE OF COURT DATE

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, the sworn application of Defendant for a Court appointed attorney was presented to the Court. The Court is of the opinion that such application should be :

(GRANTED) (DENIED).

It is ORDERED that the Honorable \_\_\_\_\_, an attorney licensed to practice law in the State of Texas is hereby appointed to represent the above named defendant in respect to the charge (s) referenced herein. It is ORDERED that the appointed attorney shall contact the defendant in compliance with Article 26.04 (j), Texas Code of Criminal Procedure after his/her receipt of notice of this appointment and that the appointed attorney shall advise the Court of the time and date of the appointed attorney's initial contact with the defendant.

SIGNED THIS \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
JUDGE

NOTICE OF SETTING

This matter is set for first appearance at \_\_\_\_\_ o'clock \_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_ in the \_\_\_\_\_ Court of Williamson County, Texas.

\_\_\_\_ Attorney notified: \_\_\_\_\_, \_\_\_\_ m., \_\_\_\_/\_\_\_\_/200\_\_\_\_ via \_\_\_\_ (fax) \_\_\_\_ (Tele)  
\_\_\_\_ (e-mail) \_\_\_\_ (other)

CERTIFICATE OF ATTORNEY

I certify that I made contact with the above named defendant at \_\_\_\_\_. \_\_\_\_ m., on the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, AND have returned the completed form to the Court via \_\_\_\_ (fax) \_\_\_\_ (other \_\_\_\_\_) on the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Attorney

DISTRICT COURT FAX: \_\_\_\_\_

Cause No(s). \_\_\_\_\_

STATE OF TEXAS

\* IN THE COUNTY COURT AT LAW

\*

VS.

\* NUMBER \_\_\_\_\_

\*

\* WILLIAMSON COUNTY, TEXAS

OFFENSE (S): \_\_\_\_\_

#### ORDER APPOINTING ATTORNEY

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, the sworn application of Defendant for a Court appointed attorney was presented to the Court. The Court is of the opinion that such application should be :

(GRANTED) (DENIED).

It is ORDERED that the Honorable \_\_\_\_\_, an attorney licensed to practice law in the State of Texas is hereby appointed to represent the above named defendant in respect to the charge (s) referenced herein. It is ORDERED that the appointed attorney shall contact the defendant in compliance with Article 26.04 (j), Texas Code of Criminal Procedure after his/her receipt of notice of this appointment and that the appointed attorney shall advise the Court of the time and date of the appointed attorney's initial contact with the defendant.

SIGNED THIS \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
JUDGE

\_\_\_\_\_ Attorney notified: \_\_\_\_\_, \_\_\_\_m., \_\_\_\_/\_\_\_\_/200\_\_\_\_ via \_\_\_\_ (fax) \_\_\_\_ (Tele)  
\_\_\_\_ (e-mail) \_\_\_\_ (other)

#### CERTIFICATE OF ATTORNEY

I certify that I made contact with the above named defendant at \_\_\_\_\_. \_\_\_\_m., on the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, AND have returned the completed form to the Court via \_\_\_\_ (fax) \_\_\_\_ (other \_\_\_\_\_) on the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
Attorney

COUNTY COURT FAX: \_\_\_\_\_

Defendant's Waiver of Attorney

The Dangers and Disadvantages of  
Self-Representation

NO. 1

THE STATE OF TEXAS

VS.

) ( IN THE COUNTY COURT AT LAW #  
) (  
) (  
) (  
) (  
) (  
) ( WILLIAMSON COUNTY, TEXAS

## THE DANGERS AND DISADVANTAGES OF SELF-REPRESENTATION

Your right to an attorney is a valued right secured by law.

Attached to this form is a list of some of the Dangers and Disadvantages of Self-Representation. Please review the list carefully before electing to sign the Waiver of Attorney form set forth below.

WAIVER OF ATTORNEY

I, the undersigned Defendant, have been advised by the Judge of the 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 an attorney, one will be appointed for me free of charge. Understanding my right to have an attorney appointed for me free of charge if I am not financially able to employ an attorney, 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 an attorney.

I further understand the dangers and disadvantages of self-representation that have been explained to me by the Judge.

I further state no one has pressured or threatened me in any way to waive my right to an attorney.

DEFENDANT

DATE \_\_\_\_\_

The foregoing admonishments were given to Defendant by the Court. The plea and waivers were given freely, voluntarily, and intelligently by Defendant and are hereby accepted.

JUDGE PRESIDING

No. \_\_\_\_\_

THE STATE OF TEXAS

X

IN THE COUNTY COURT

X

AT LAW NO. ONE

X

WILLIAMSON COUNTY, TEXAS

WAIVER OF ATTORNEY

I, the undersigned Defendant, understand that I have the right to an attorney to assist me in the case (s) pending against me, and I further understand if I am unable to afford an attorney, I could request a court appointed attorney. I understand if I am found indigent by the Court, I would be given a court appointed attorney free of cost to me.

I further understand the dangers and disadvantages of self-representation include the following: The Assistant County Attorney representing the State knows the rules of procedure and evidence. It is presumed that with no attorney, I lack that knowledge. With no attorney, I know that I will be bound by the same rules of law, evidence and procedure. With no attorney, I will face extreme difficulty when representing myself which could result in my failure to have a fair trial based on my lack of knowledge of the rules of law, evidence and procedure.

An attorney's assistance would help me evaluate the State's case against me, any defenses I might have, the plea I should enter, my right to a trial by jury, my right to a hearing before the Court on a Motion to Revoke probation, my right to remain silent without penalty or the right to testify and the process for appeal.

After understanding my right to an attorney, either hired by me or court appointed by the Court, and the disadvantages of self-representation, I desire to waive or give up the right and I hereby request the Court to allow me to proceed with this case without an attorney.

I further state no one has pressured or threatened me in any way to waive my right to an attorney.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

The foregoing waivers are hereby found by the Court to be given freely, voluntarily and intellectually by the Defendant and are hereby approved and accepted.

\_\_\_\_\_  
Presiding Judge

\_\_\_\_\_  
Date



## THE DANGERS AND DISADVANTAGES OF SELF-REPRESENTATION

Your right to an attorney is a valued right secured by law.

The Assistant County Attorney knows the rules of procedure and evidence. It is presumed that with no attorney you lack that knowledge. With no attorney, you will be bound by the same rules.

If you are now accused of a crime, an attorney's assistance would help you to evaluate the State's case against you, any defenses you might have, the plea you should enter, your right to a trial by jury, your right to testify or remain silent without penalty, and the process for appeal.

With no attorney, you will face extreme difficulty when representing yourself.

If you are accused of violating any condition of probation, you are also entitled to the assistance of an attorney. An attorney's assistance would help you evaluate the State's Motion to Revoke Probation, any defenses you might have, the plea you should enter, your right to testify or remain silent without penalty, and the process for appeal.

I give you this statement to acquaint you with the dangers and disadvantages of self-representation. If you have questions about this warning please ask before deciding about this valued and secured right.

If you sign the "Waiver of Attorney" form this will indicate you intend to give up your right to representation by an attorney. If signed, it shows your intention to give up the right to either a hired attorney, or have an attorney appointed to you if you are unable to afford the expense of hiring one.

If you do not wish to waive your right to an attorney you must either: (1) inform the Court you want time to hire your own attorney; or (2) inform the Court that you want the Court to appoint an attorney to represent you.

\_\_\_\_\_  
INITIALS

Defendant's Waiver of Ten (10)  
Days to Prepare

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

THE STATE OF TEXAS

VS.

) ( IN THE COUNTY COURT AT LAW #:  
) (  
) ( OF  
) (  
) ( WILLIAMSON COUNTY, TEXAS

DEFENDANT'S WAIVER OF TEN (10) DAYS TO PREPARE

I the above named defendant understand that I have a right to ten (10) days to prepare for the charges against me before proceeding to any disposition of my case.

Understanding that I have waived my right to an attorney and that I have a to at least ten (10) days to prepare for my case I wish to waive my right to the ten (10) days to prepare in order to proceed with the disposition of my case.

\_\_\_\_\_  
DEFENDANT

\_\_\_\_\_  
DATE

I certify the above named defendant has been advised of their ten (10) days to prepare for their case. The above named defendant has knowingly and intelligently waived said right.

\_\_\_\_\_  
JUDGE PRESIDING

# **TAB H**

Expenses, Vouchers and Fee Schedules

# Judge Billy Ray Stubblefield

26<sup>th</sup> Judicial District Court  
State of Texas

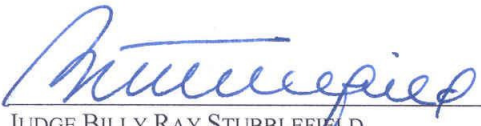
405 Martin Luther King Drive, Box2  
Georgetown, Texas 78626  
512.943.1226  
512.943.1188 fax


October 29, 2007

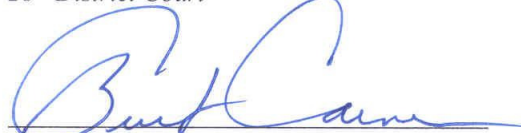
## Felony Court Appointed Attorney Fee Notice

Effective November 1, 2007, except for good cause shown, court-appointed attorney fees will be as follows:

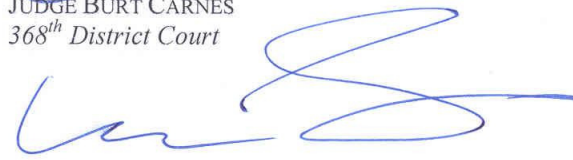
Routine felony plea .....	\$ 500.00
Routine felony plea (Spanish-speaking defendant).....	\$ 750.00
Jury trials per day.....	\$1,000.00
Jury trials per day (Spanish-speaking defendant).....	\$1,250.00

  
JUDGE BILLY RAY STUBBLEFIELD  
26<sup>th</sup> District Court

  
JUDGE KEN ANDERSON  
277<sup>th</sup> District Court

  
JUDGE BURT CARNES  
368<sup>th</sup> District Court

  
JUDGE MICHAEL JERGINS  
395<sup>th</sup> District Court

  
JUDGE MARK J. SILVERSTONE  
425<sup>th</sup> District Court

**INVESTIGATIVE AND EXPERT WITNESS EXPENSES,  
ITEMIZED ATTORNEY'S FEE VOUCHER, AND  
FEE SCHEDULES FOR FELONY AND MISDEMEANOR  
APPOINTMENTS**

**INVESTIGATIVE AND EXPERT EXPENSES:**

Counsel appointed in a non-capital case shall be reimbursed for reasonable and necessary expenses, including expenses for investigation 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 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 reason 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.

Articles 26.05(d), 26.05(f), (g), & (h), Texas Code of Criminal Procedure



## COURT APPOINTED ATTORNEY

TO THE COMMISSIONERS COURT  
OF WILLIAMSON COUNTY, TEXAS

PAY TO: \_\_\_\_\_

Federal Identification Number  
or

Social Security Number

Is Firm a corporation?

Yes\_\_\_\_\_ No\_\_\_\_\_

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

THE STATE OF TEXAS VS.

**Comments:**

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★★★★★★★★★★★★★★★★★★★★

I hereby approve payment for the above cause in the amount of \$\_\_\_\_\_

JUDGE,      Judicial District Court

Date: \_\_\_\_\_, 20\_\_\_\_

Original - County Auditor for Payment Copy  
1st Copy - Attach to payment to Attorney  
2nd Copy - For Judge's Record



**DON HIGGINBOTHAM**

JUDGE, COUNTY COURT AT LAW #3  
WILLIAMSON COUNTY COURTHOUSE ANNEX  
405 S. MARTIN LUTHER KING, #16  
GEORGETOWN, TEXAS 78626

512-943-1160

October 26, 2007

Honorable Billy Ray Stubblefield  
Presiding District Judge  
*Via Hand Delivery*

**RE: Attorney fee schedule for Indigent Defense (Misdemeanors)**

Dear Judge Stubblefield:

The County Court at Law judges have revised the fee schedule for appointed counsel (effective immediately), pursuant to the Texas Fair Defense Act, originally provided to you via letter dated October 19, 2001 and later amended via letter dated November 1, 2004. The current fee schedule is as follows:

Simple plea (minimum)	\$175.00
Contested or extended matters (or time spent out of court)	\$ 60.00 per hour
Time spent in trial	\$200.00 per ½ day

Please include this schedule in the latest "Report of Williamson County, Texas Concerning Indigent Defense" that will be submitted to the Office of Court Administration on November 1, 2007.

Sincerely yours,

A handwritten signature in blue ink that reads "Don Higginbotham".

Don Higginbotham  
Senior County Court at Law Judge  
Williamson County, Texas

DH/awv

Cc: Judge Suzanne Brooks  
Judge Tim L. Wright  
Williamson County Auditor