

**RULE 6
CRIMINAL CASES**

RULE 6.10

Felony and Misdemeanor Cases

No Local Rules under this subdivision.

RULE 6.10-A

Grand Jury

No Local Rules under this subdivision.

RULE 6.11

Filings/Return of Information

Assignment of Cases after Information

The following rules shall govern the assignment of misdemeanor cases and other matters within the jurisdiction of the County Courts at Law in Fort Bend County, Texas:

(A) All misdemeanor proceedings presented to the County Clerk for filing shall be assigned by the County Clerk on a random basis to the County Courts at Law by mean of a blind filing process which provides for the equal distribution of new cases in such a manner that it cannot be determined to which court a case will be assigned until after said court assignment. Except as otherwise provided in these Rules, the County Clerk shall randomly assign every criminal case filed by information with uneven numbered cases being assigned to County Court at Law No. 1 and even numbered cases being assigned to County Court at Law No. 2.

(B) After refileing and docketing of misdemeanor information into the County Courts at Law, the County Clerk will determine by research [based upon information provided by the District Attorney at the time of filing the information] whether the defendant named in the misdemeanor information has a prior connection to an existing case in any of the County Courts at Law. Such prior connection is defined as: (1) defendant has been accorded misdemeanor probation in one of the County Courts at Law and the probation has not been revoked or been terminated; (2) defendant has prior pending misdemeanor charges in one of the County Courts at Law; (3) the charge arose from the same criminal transaction which was the basis of the misdemeanor information previously filed in one of the County Courts at Law; (4) the defendant has been accorded deferred adjudication in one of the County Courts at Law and the deferred adjudication has not been terminated or adjudicated; (5) the defendant has been granted a restricted driver's license in one of the County Courts at Law and is charged with a subsequent DWI or DWLS; or (6) a case wherein the defendant has not discharged his sentence. If the

County Clerk's research indicates one of the above prior connections, the new misdemeanor case filing will be transferred to the court where the defendant has such prior connection. (For purpose of this rule it will be assumed that all even numbered cases were filed in County Court at Law No. 2 even though it was not in existence at the time the case was filed).

All refiles of cases already pending shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the refiled case in the court where the initial misdemeanor information is or was pending. The setting date assigned to the refiled case will be the same date as the initial pending case. All writs of habeas corpus, contempts, writs of procedendo and ex parte matters shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer the proceedings in the courts where prior case connection exists, or if no prior case connection exists, to transfer the proceeding to the court wherein the hearing on such proceeding is to be conducted. Unless said cases are later transferred by agreement of the Judges or are transferred by authority of a separate order, all such assigned cases shall remain on the docket of the court of assignment until final disposition.

The Fort Bend County Clerk shall not effect any changes in the matters of random filing, numbering of cases, docketing of cases, transfer of cases, or assignment of settings, or any other matters that affect the distribution of work or the dispatch of the business of the Fort Bend County Courts at Law unless so directed to do so by the Judges of the County Courts at Law.

(C) Upon filing and docketing of misdemeanor information into the County Courts at Law of Fort Bend County, Texas, the County Clerk will determine by research whether the defendant named in the misdemeanor information has a prior connection in any of the County Courts at Law, in accordance with the criteria established in Rule 6.11.

(D) All refiles and cases already pending or dismissed shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the refiled case in the court where the initial misdemeanor information is or was pending. The setting date assigned to the refiled case will be the same date as the initial case, if the initial case is still pending. If the initial case is not still pending, the refiled case shall be given an appropriate setting in accordance with these Rules. All writs of habeas corpus, contempts and ex parte matters shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the proceedings in the court where prior case connection already exists or if no prior case connection exists, to transfer the proceeding to the court wherein the hearing on such proceedings is to be conducted.

(E) When it has been determined that a case is to be transferred from one court to another court, the Judge of the sending court shall enter a docket notation that the case is to be transferred and specify which court the case is to be transferred to.

(F) After the docket entry is completed, the Coordinator of the sending court will

prepare a transfer order, obtain the Judge's signature and cause the signed order and court case file to be timely delivered to the Coordinator of the receiving court. The Coordinator of the receiving court will obtain the Judge's signature on the transfer order. At that time the Coordinator will set the case in the receiving court and complete all setting information on the bottom of the transfer order.

RULE 6.12

Arraignment/Initial Appearance

(A) **Initial Settings**

The County Clerk of Fort Bend County, Texas, in accordance with the following procedure, is directed to provide the first setting on all misdemeanor information and certain other processes filed and docketed into the County Courts at Law of Fort Bend County, Texas, and to record same in the automated system.

The first setting date of the case shall be known as the "Initial Arraignment" setting and it shall be provided by the County clerk on all cases except those filed as no-arrest where a capias is issued for the defendant.

(B) **Arraignment After Information Filed**

1. Upon information being filed the cause shall be randomly assigned to one of the County Courts at Law, pursuant to these Rules.

2. When a defendant appears for an initial appearance and he has been formally charged, the Court may proceed to arraign the defendant or the Court may postpone arraignment at the Court's discretion.

3. Upon arraignment, unless the cause is otherwise disposed of (such as by plea of guilty or dismissal), the County Court at Law shall refer by appropriate reset order the cause for further proceedings.

4. The reset order may give notice to the defendant and his counsel of a pre-trial date and a probable date for trial and of a deadline to file pre-trial motions.

RULE 6.13

Appointment of Counsel

(A) The Court shall appoint counsel for an indigent defendant pursuant to Article 26.04, Texas Code of Criminal Procedure at the earliest practicable time.

(B) A defendant who claims indigency and requests appointment of counsel shall complete under oath a questionnaire concerning his financial resources, or respond to the Court under oath to an examination regarding his financial resources or both.

(C) The questionnaire shall be in the form adopted by the Courts.

(D) A counsel appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be reimbursed for reasonable expenses incurred with prior court approval for purposes of investigation and expert testimony and shall be paid a reasonable attorney's fee for performing services as provided in Article 26.05(a), Texas Code of Criminal Procedure, based on the time and labor required, the complexity

of the case, and the experience and ability of said counsel, as follows:

1. **Out of Court Hours** -- Minimum \$25.00/hour and Maximum \$40.00/hour.
2. **Non-Trial Appearances** -- Minimum \$35.00/hour and Maximum \$50.00/hour.
3. **Trial Appearance** -- Minimum \$50.00/hour and Maximum \$50.00/hour with a daily maximum of \$400.00.
4. **Appeals and Writs** -- Minimum \$25.00/hour and Maximum \$50.00/hour with a maximum of \$750.00 an appeal.

(E) Counsel requesting compensation for representing an indigent criminal defendant must submit a completed application for payment in the form provided by the Courts for reporting the types of services performed in each case.

The application for payment for fees and expenses must be documented in the form provided by the Courts and as supplemented by extra sheets.

Hourly billing must be accompanied by a completed out-of-court and in-court billing sheet.

Time spent performing the services must be reported in quarter hours, using percentages (i.e., .25, .50, .75).

(F) No payment shall be made until the compensation form is submitted to and approved by the Court and is in accordance with the fee schedule.

(G) If the case is disposed of by a plea of guilty, the application must be submitted to the Court at the time of the plea; otherwise, the application must be submitted within fourteen days of the case being disposed of, unless waived by the Court and award of attorney's fees noted on docket sheet by the Court.

(H) Failure to timely submit the application may constitute a waiver of compensation.

(I) If the Court determines that a defendant has financial resources that enable him to offset in part or in whole the costs of the legal services provided, including any expenses or costs, the Court shall order the defendant to pay the amount that it finds the defendant is able to pay.

(J) If at the time of appointment of counsel the Court finds that the defendant is employed or is about to be employed, the Court may order the defendant to periodically deposit into a "prepayment of attorney's fees and costs" account administered by the County Clerk an estimated amount of such fees and costs in advance of the disposition of his case; any payment in excess of the amount actually ordered by the

Court for such fees and costs will be refunded to the defendant.

(K) Expenses for purpose of foreign language interpreter, investigation, expert testimony and psychological evaluation and other expenses must receive prior court approval. Counsel must submit a timely written motion requesting the item, setting out the factual basis for the request, describing the necessity of specific services to be rendered and provided an estimated cost.

(L) Billing for investigation must be broken down by specific costs and services rendered after prior approval has been obtained.

(M) Expert testimony must include itemized billing for services rendered after prior approval has been obtained.

(N) Counsel appointed to represent indigent defendants shall represent the defendant until the charges are disposed of, whether by conviction, acquittal or dismissal, or until the right of appeal is exhausted or the attorney is relieved of his duties by the Court or replaced by other counsel.

(O) Counsel must make initial contact with the defendant in custody within three business days of the appointment.

RULE 6.14

Appearance of Defendant and Counsel/Court Attendance

Every pleading, brief, and motion of a party represented by an attorney, shall bear the manuscript signature of at least one of the attorneys of record, in his individual name, along with his state bar card number, address, and telephone number. The pleading, brief, or motion shall further contain a certification that a copy of the document was mailed or hand-delivered to opposing counsel.

RULE 6.15

Withdrawal or Substitution of Counsel

- (A) With the Court's approval, counsel may withdraw, if:
1. a written notice to withdraw stating proper grounds is filed;
 2. the defendant has been notified of the filing of the motion and has signed the motion;
 3. the Court determines that there is sufficient time for new counsel to enter the case; and

4. the defendant's papers and property have been returned to him.

(B) If a motion to withdraw contains the written consent of the defendant, the Court may grant the motion without a hearing.

(C) A defendant shall not be permitted to dismiss his counsel of record unless a motion to dismiss counsel is filed in the case, stating good cause for such dismissal.

(D) No withdrawal or dismissal of counsel shall be effective unless approved by the Court.

(E) No withdrawal or dismissal of counsel shall be permitted if it reasonably appears that such withdrawal or dismissal is solely for the purpose of delay.

(F) Newly retained counsel shall not be permitted to substitute for counsel of record unless new counsel is prepared to proceed with the case without a delay of the proceedings.

(G) No withdrawal or substitution of counsel shall be the basis for a continuance.

RULE 6.16

Bond and Bond Forfeiture

(A) Each Court shall have discretion to set and modify bail as prescribed by law.

(B) Each Court may set bail in alternative amounts; for example, the Court may order one amount for the posting of a surety bail bond and another amount for the posting of a cash bond, provided that the amount of the cash bond is not more than ten percent (10%) of the amount required for a surety bail bond.

(C) A Court authorizing the release of an accused upon his personal bond may require the accused to post a cash deposit of not less than five percent (5%) of the face amount of the personal bond or \$50.00, whichever is greater.

(D) At the time the accused is placed in the County Jail, each accused shall fill out (with such assistance from the jail personnel as necessary) under oath a biographical data sheet containing all relevant information to guide the Court in setting bail.

(E) Such information shall include the accused's name and aliases, date and place of birth, addresses within the last five year, marital and family data (including name of parents and in-laws and their addresses and telephone numbers), employment history, annual income, prior arrests and convictions, identification numbers and similar information.

(F) The statement shall accompany the accused to each jail docket and initial appearance while he is in custody for periodic review by the Court and, upon information filed, shall be filed in the cause.

RULE 6.17

Refund of Cash Bonds

(A) Cash bond deposits will be refunded to depositors other than the defendant upon final disposition of the criminal proceeding unless notice of appeal is given. Refunds will not be given until a replacement bond has been duly filed with the County Clerk or notice of appeal is either withdrawn or the Mandate of Affirmance has been satisfied.

(B) In the event of notice of appeal, defendant's cash bond deposits will not be refunded or assigned until a replacement bond has been duly filed with the County Clerk or until notice of appeal has been either withdrawn or the Mandate of Affirmance has been satisfied.

RULE 6.18

Bond Forfeiture Reinstatements, Dismissals and Judgments

(A) All bond reinstatement orders, bond forfeiture dismissal orders and agreed judgments, wherein payments of cost of judgment are involved, shall be presented in person by the bonding agency or District Attorney to only the Judge of the Court wherein the forfeiture occurred. A brief narrative statement shall be provided, in writing, by the District Attorney setting forth the basis for the recommendations as to bond reinstatement, or dismissal of forfeiture.

(B) The total amount of the cost on bond reinstatements with costs, dismissals with costs, and in the case of agreed judgments, the total amount of judgment and costs, will be delivered to the Court along with the order of judgment by the bonding company or the District Attorney.

(C) Money orders and cashier's checks payable to the County Clerk of Fort Bend County, are the only tender that will be accepted. Cash payments may be made in advance and receipt obtained from the County Clerk and presented with the order or judgment.

(D) Upon reinstatement, dismissal, or approval of agreed judgment by the

Judge of the Court wherein the forfeiture occurred, the order, judgment, and the accompanying tender, shall be delivered by the Judge to the County Clerk's office wherein receipts for fees paid may be obtained in person or mailed to the bonding agency by the County Clerk.

RULE 6.19

Approval of Personal Bonds During Non-Business Hours

No Local Rules under this subdivision.

RULE 6.20

Juvenile Defendants

(A) Any defendant who is charged with a misdemeanor offense within the jurisdiction of the Fort Bend County Courts at Law will be presumed to be an adult until a proper judicial determination is made to the contrary.

(B) In any case wherein proof is offered indicating that a defendant may be a juvenile, the Sheriff and/or the District Attorney are requested to make the Court in which the cause is pending aware of the style of the case in which the defendant is determined or suspected to be a juvenile.

(C) The Court will set the cause as soon as possible for a hearing to determine whether the defendant is a juvenile and only after that determination will the defendant be released from custody, and the cause transferred to the Juvenile Court in accordance with ' 56.08, Family Code.

(D) In all cases wherein a determination is made that a defendant is a juvenile, expeditious transfer of the cause will be made to remove the case from the criminal court's docket.

(E) The defendant may be released from custody if proof is provided to the Sheriff or other holding agency that the defendant is a juvenile. The evidence provided to the Sheriff or other holding agency effecting the release of the defendant from custody shall be presented to the Court on the next court workday in order that a judicial determination may be made, and if the Court finds that the defendant is a juvenile, a transfer to the Juvenile Court will be immediately processed. Should the Court find, however, that the defendant is not a juvenile, appropriate process will be issued for the defendant's arrest.

RULE 6.21

Probable Cause Hearings for Further Detention

(A) All pre-trial detainees shall be given a hearing within 48 hours immediately after being placed in a Fort Bend County jail facility. Personnel and/or files from the District Attorney, County Clerk, and pre-trial services agency necessary to conduct the

hearings shall be present and made available at such hearing. All detainees will be deemed to have been taken before a judge either by being physically present or by the use of high-speed two way audio/video transmission technology, if available. In circumstances where audio/video technology is utilized, the entire hearing must be recorded on video tape and maintained by the Court for a period of one hundred twenty (120) days after the hearing.

(B) The magistrate shall perform the following for every person for whom a hearing is conducted:

1. inform the accused in clear, understandable language of the charges against him and of any complaint or information that may have been caused to be filed against him;
2. inform the accused of his right to retain counsel, of his right to remain silent; of his right to have an attorney present during any interview with peace officers or prosecutors; of his right to terminate police interrogation at any time; of his right to request the appointment of counsel if he is indigent and that any statement made by the accused can and probably will be used against him at trial;
3. determine whether probable cause exists for the further detention of the accused on the charges filed, through the use of live witness testimony, affidavits, the arresting officer's testimony, an analysis of the written offense report, field notes or other reports prepared by the arresting office;
4. enter the basis and results of the findings on the record and have the same included in the papers of the case file maintained by the County Clerk;
5. upon a finding that no probable cause exists for further detention the accused shall immediately be ordered discharged from custody, and upon a finding that probable cause exist, the magistrate shall set the amount of bail required of the accused for release and determine the eligibility of the accused for release on personal bond, cash bond, surety bond, or other alternative to scheduled bail amounts.

(C) The bond schedule maintained by the County Court at Law Judges for all misdemeanor offenses occurring within the Courts' jurisdiction and shall be referred to by the magistrate. Such bond determinations shall be according to the following criteria:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with;
2. the nature of the offense for which probable cause has been found and the circumstances under which the offense was allegedly committed are to be considered, including both aggravating and mitigating factors for which there is reasonable ground to believe shown, if any;
3. the ability to make bail is to be regarded, and proof may be taken upon this point;
4. the future safety of the victim may be considered, and if this be a factor, release to a third person should also be considered; and
5. the magistrate shall also consider the employment history, residency, family affiliations, prior criminal record, previous court appearance performance and any outstanding bonds of the accused.

(D) At all other times, defendants booked into the County Jail on any and all process pending in or issued out of the County Courts at Law, shall be brought immediately before a magistrate who shall determine if probable cause exists for the continued detention of the defendant.

RULE 6.22

Speedy Trial

No Local Rules under this subdivision.

RULE 6.23

Motions/Pre-Trial Hearings/Pre-Trial Matters

(A) Each court shall determine its own settings for pre-trial and trial. The District Attorney's Office or counsel for defendant may request settings for pre-trial hearings.

(B) The defendant shall appear at each scheduled pre-trial hearing, unless he waives his pre-trial hearing by executing a waiver of pre-trial hearing; however, if the State

filed pre-trial motions, the defendant shall appear.

(C) All pre-trial motions, including motions in limine, must be filed by the set deadline, unless an extension of time is granted by the Court for good cause shown.

(D) Each pre-trial motion must succinctly state the relief sought, the facts pertinent to the motion, and supporting argument with authorities; must be signed by counsel and, where required by the defendant; must be sworn to when required; must contain a certificate of service and consultation with opposing counsel and a statement that the matter raised in the motion was not resolved or, if no consultation was accomplished, an explanation thereof; must contain a notice that the motion will be presented to the Court at the pre-trial hearing with or without evidence; and must contain a proposed order granting or denying the motion in full or in part.

(E) The Court may refuse to consider any pre-trial motion that fails to comply with these Rules.

(F) The waiver of pre-trial hearing shall contain a declaration by the defendant and his attorney that no motions have been or will be thereafter filed, or that any motions previously filed are withdrawn or waived and that no necessity for a pre-trial hearing exists, and that the defendant is ready for trial.

(G) Motions for continuance, whether by the State or the defendant, must comply with Chapter 29, Texas Code of Criminal Procedure and must be presented to and considered by the Court on or before the Friday before the scheduled trial date.

(H) Except for good cause shown and upon compliance with these Rules, the Court shall not consider any motion for continuance on the scheduled trial date.

1. It shall be the duty of the proponent of such motion to obtain a timely setting for hearing said motion with due notice to opposing counsel or party.
2. The Clerk shall have no duty to present the motion to the Court.
3. A motion for continuance that avers conflicting settings shall have attached to it as exhibits proof of such conflict, including dates of notice of the other settings.
4. Failure to attach proof of conflicting settings shall authorize the Court to summarily deny the motion.
5. The mere filing of a motion for continuance shall not authorize the absence of counsel or of the defendant at the scheduled setting.
6. Failure of counsel or the defendant to appear shall

authorize the Court to render the appropriate orders.

7. The defendant must consent in writing to a motion for continuance filed by his attorney of record. Failure to contain such written consent shall authorize the Court to summarily deny the motion.

(l) If a court-appointed interpreter is necessary, the attorney for the defendant shall request same in writing at the pre-trial hearing or earlier.

RULE 6.24

Settings/Schedules

Criminal Cases/Speedy Trials

Criminal cases are to be filed, docketed, assigned, and processed pursuant to Rule 3.10 hereof when not in conflict with specialized setting rules.

RULE 6.25

Subsequent Settings

All subsequent settings of misdemeanor cases shall be the specific responsibility of the Court Coordinator or Judge of each County Court at Law. Reset forms provided by the District Attorney with the Courts' consent as to wording shall be signed by defendant, defendant's attorney, Assistant District Attorney and approved by the Court. Reset forms will be used to reset trials, motion hearings, and all other pre-trial hearings including pleas and arraignments.

(A) **Bond Reinstatement**

When a case is again active because of the reinstatement of a bond, either with or without cost, the Court Coordinator shall enter a seven (7) day setting except when, for some reason, a setting already exists in the system, in which case the date in the system shall remain.

(B) **Bench Warrants and Attachments**

Such documents shall have a setting date in the body of the document and the Court Coordinator shall set accordingly.

(C) **Summons in Lieu of Capias**

When a misdemeanor information is taken against a corporation in, for example, a pollution case, the process issued shall be a summon rather than a capias and the summons shall require that the corporation make an appearance at 8:30 A.M. on the first Tuesday next following the expiration of twenty days from the date of service, unless the Court orders a specific date for appearance.

When a summons is used against a defendant in lieu of a capias in a misdemeanor information that is a refile of an earlier filed misdemeanor information, the appearance date on the newly filed case shall be set the same day as the earlier filed

case except when the earlier filed case has no setting. In that event, then both cases shall be set at 8:30 A.M. on the first Tuesday next following the expiration of seven (7) days from the date of service, unless the Court orders a specific date for appearance and the setting in the refiled case shall be for arraignment.

(D) **Mandate of Abatement**

The County Clerk shall notify the County Courts at Law upon receipt of a mandate or order of abatement. The Court may set a hearing twenty-one (21) days from the date of order or mandate. The Court Coordinator shall notify surety, principal and attorney of record by certified mail of the hearing date.

(E) **Mandates of Affirmance and Reversal and Remand**

Immediately upon receipt of information from the County Clerk, the Court Coordinator, upon receipt of an order or mandate, shall determine first if the defendant is in the Fort Bend County Jail. If the defendant is in jail the case shall be set the next day court is convened. If the defendant is on bond, the County Clerk shall immediately issue a capias for the defendant, provide a seven (7) day setting, and forward the information to the Court. Immediately upon receipt of the information from the Clerk, the Court Coordinator shall notify the attorney of record on appeal, the surety on appeal bond, if one exist, and the appellant by regular mail.

RULE 6.26

Adding Cases to the Daily Docket

(A) Only the Judge or the Coordinator of the Court may approve the addition of a case to the docket.

(B) To request the addition of a case to the court's docket, the requesting party (District Attorney, defense attorney, Court Clerk, Sheriff, etc.), shall submit in writing to the Court Coordinator the case number, defendant's name and status (jail or bond), and the reason for the request.

RULE 6.27

Docketing of Misdemeanor Indictments

Upon receipt of a misdemeanor indictment returned by a Fort Bend County Grand Jury and certification that the cause is to be transferred to the docket of the County Courts at Law, the cause shall be randomly filed and docketed into the County Courts at Law in the manner prescribed by law and in accordance with these Rules. The County Clerk shall endorse the amount of bail upon the papers of the case in accordance with the bail schedule provided by these Rules. The County Clerk shall then issue a capias to the Sheriff of Fort Bend County who shall require a new bond be made in the amount specified in the capias.

RULE 6.28

Docketing of Non-Record Municipal Court and Justice Court Appeals

(A) All cases transmitted to the County Clerk of Fort Bend County, Texas by municipal and justice courts for the purpose of appeal of misdemeanor convictions shall contain all original papers filed, an appeal bond (unless waived) and a certified transcript of all proceedings had in the transmitting court.

(B) Where the transcript is complete, the de novo appeal shall be set for arraignment at 8:30 A.M. on the first Tuesday following fourteen (14) days from the date of the receipt of the transcript. The Clerk shall forward written notice to the defendant.

(C) Where the defendant is in custody, the de novo appeal shall be set for arraignment on the next date the court is in session.

Filing and Attraction of Municipal Court and Justice Court Appeals

Two types of municipal appeals, referred to in the system as MAP's, are distinguished:

City Municipal Appeals and All Others Including Justice and Non-Record Municipal Cases

1. **City Municipal Appeal** are filed into the County Courts on a rotation basis and are not attracted to an already pending misdemeanor nor do such cases attract other misdemeanors.
2. **All Others** are trial de novo cases and are attracted to other misdemeanors already pending against the same person and, likewise, attract other misdemeanors when pending. These cases are simply new County Court cases.

Each category attracts additional MAPs in its own category. For example, an appellee/defendant having a City Municipal Appeal pending and who appeals another City case will have the newer appeal filed into the court where the current appeal is pending.

An appellee/defendant having any other municipal or JP appeal pending and who appeals another non-city case will have the newer appeal filed into the court where the current appeal is pending.

Finally, City appeals do not attract all other municipal appeals and all other

municipal appeals do not attract City appeals, again, because one is from a court of record and the other isn't.

RULE 6.29

Jury Selection/Voir Dire

No Local Rules under this subdivision.

RULE 6.30

Probation Applications/Deferred Adjudication

No Local Rules under this subdivision.

RULE 6.31

Pre-Sentence Report/Court's Proposed Sentence

Defendants may waive pre-sentence investigation, in writing, signed by both defendant and his/her attorney, with approval of the Court.

RULE 6.32

Judgments/Orders

(A) Upon the conviction or revocation of probation of a defendant, the State shall submit the appropriate judgment and sentence or order of revocation as may be required by law.

(B) Where probation is awarded to a defendant, the District Attorney shall prepare the order of probation containing the conditions of probation, and shall deliver a copy of said order to the defendant.

(C) The State may cause the dismissal of a case by filing a motion to dismiss containing the order of dismissal on the same document. The motion shall specifically state the reason(s) for dismissal. If the defendant is in jail, the filing of the motion to dismiss, the order granting said motion and the delivery of a copy of the order shall be expedited in order to effect the immediate release of the defendant from custody, if the defendant has no other charges pending against him.

(D) Upon acquittal of the defendant, the Court Coordinator shall prepare the appropriate judgment for approval of the Court. If the defendant is in jail, the defendant shall be released from custody immediately after his administrative discharge from the jail, but in no event later than the same day of acquittal, if no other charges or holds are pending against him.

(E) Upon disposition of the cause, the Court Coordinator of the court shall deliver a copy of the final judgment or order to all counsel of record.

(F) If the Court's ruling on a pre-trial motion or trial motion has the effect of causing the dismissal of the cause, such as the suppression of all incriminating evidence

or the quashing of an information, counsel for defendant shall submit a proposed order granting the motion, and if the defendant is in jail, he shall be discharged immediately if an order of dismissal is signed by the Court and if there are no other charges pending against him.

(G) If the State certifies that the State will appeal said ruling or order or will seek the reindictment of the defendant, the Court shall not sign an order of dismissal unless the defendant shows that no appeal is timely taken by the State as required by Article 44.01(d), Texas Code of Criminal Procedure, or that there was no reindictment of the defendant within thirty (30) days of the ruling of the Court.

(H) Further, if the defendant is on bail, he shall remain at large on the existing bail bond, if the defendant is in custody, he is entitled to reasonable bail, unless the appeal is from an order which would terminate the prosecution, in which event the defendant is entitled to release on personal bond, see Article 44.01, Texas Code of Criminal Procedure.

RULE 6.33

Restricted Driver's Licenses -- Occupational Driver's License

(A) Prerequisites for Issuance

1. Operator, commercial or chauffeur license, or any class designation of these licenses, must be suspended as a result of conviction of an offense that makes suspension automatic.
2. A valid operator, commercial or chauffeur license, or any class designation of these licenses, must be surrendered to the Court at the time of conviction.
3. A verified petition must be delivered to the County clerk along with a fee deposit to cover statutory required fees.
4. The Clerk, upon receipt of the verified petition and accompanying fee, shall docket and number the petition ancillary to the cause and in the Court where the conviction occurred.
5. The Clerk shall deliver the filed, docketed, and verified petition to the Judge of the Court where same is filed.
6. The Judge of the Court shall set the matter for hearing

at a time and day convenient to the Court.

7. In the absence of a waiver of notice and issuance approval being executed and filed by the attorney for the State, the Clerk shall send a copy of the verified petition and order setting hearing, to the attorney for the State, and notice of hearing to the petitioner's attorney, and if none, to the petitioner.
8. On hearing, the petitioner shall present evidence in support of each and every allegation contained in the petition, and the State may present evidence against granting the petition.

9. The Court may grant petitioner use of a motor vehicle and specify the reason for the use, the hours and days of use, the routes or areas to be used, and order the Clerk to forward to the Texas Department of Public Safety the surrendered license, the record of conviction and a certified copy of the order granting petitioner use of a motor vehicle, and order the Texas Department of Public Safety to issue petitioner a restricted license for the duration of the suspension period.

(B) **Results of Issuance**

1. Upon the signing and entry of the order granting petitioner use of a motor vehicle, the Clerk shall furnish a certified copy of the order to the petitioner, at petitioner's expense, and a certified copy of the order may be used as a restricted license for fourteen (14) days following the date of the order.
2. Upon receipt of the surrendered license, the record of conviction and a certified copy of the order granting petitioner use of a motor vehicle, the Texas Department of Public Safety shall issue a restricted license reflecting on its face the restrictions imposed by the Court and expiration date.
3. A certified copy of the order granting petitioner use of a motor vehicle must be carried by the petitioner at all times while operating a motor vehicle.

4. A peace officer, upon request, may examine the order at any time the petitioner is operating a motor vehicle.
5. It is an offense to operate a motor vehicle when a certified copy of the order granting petitioner use of a motor vehicle is not carried by the operator.

RULE 6.34

Probation Revocations/Motions to Adjudicate/Habeas Corpus

- (A) Proceedings to revoke probation apply to proceedings to adjudicate guilt.
- (B) Motions to revoke probation shall state a summary of the prior proceedings in the cause, including but not limited to the offense alleged in the indictment or information, the date of the said conviction or entry of plea of guilty, and the term of probation.
- (C) Upon the arrest of a probationer who fails to make bail within three (3) days of his arrest, the defendant shall appear on the first County Court at Law jail docket thereafter; in all other cases the hearing shall be set by the Court.
- (D) For good cause shown upon written motion in compliance with Rule 6.23 (except that the motion may be presented to the Court one business day prior to the set hearing date), the Court may continue a revocation hearing.
- (E) The resetting shall be acknowledged by the probationer in writing.
- (F) Only the Court in which the defendant was tried may fix or alter conditions of probation, revoke probation or discharge the defendant, unless the Court has transferred jurisdiction of the case to another court with the latter's consent. See ' 5, Article 42.12, Texas Code of Criminal Procedure.

RULE 6.35

Appeals from Lower Courts

No Local Rules under this subdivision.

RULE 6.36

Miscellaneous

(1) General Provisions

(A) These Rules shall be known as the "**Local Rules of County Court Practice in Fort Bend County**" and may be referred to as the "**Misdemeanor Criminal Rules.**"

(B) These Rules shall be applied to secure the effective administration of the misdemeanor criminal practice in the County Courts at Law of Fort Bend county and to

eliminate unjustifiable expense and delay in the disposition of misdemeanor criminal cases.

(C) These Rules shall be liberally construed to achieve fairness to all parties in each case, with due regard to the rights of the State, the accused, the victim and society.

(D) These Rules shall be subject to the law of the State of Texas and to such rules adopted by higher courts.

(E) Each County Court at Law shall retain its inherent authority to adopt local rules of court not inconsistent with these Rules.