

DALLAS COUNTY CRIMINAL COURT LOCAL RULES

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TRANSFERS BETWEEN COURTS

(A) Cases involving a defendant with multiple charges filed in different courts shall be transferred as follows:

1. Cases with the oldest file date will receive all the subsequent case filings.
2. If there is a pending probation violation out of another court, the new case shall be transferred to the court where the probation violation is pending.
3. If the filing date and date of offense are the same, the court with the lowest case number shall receive all other pending cases.

(B) Co-defendants are defined as cases arising out of the same criminal episode as described by Penal Code 301. The same guidelines for transfer apply as for cases involving one defendant. If co-defendants both have pending probations out different courts, the court that placed a defendant on probation first shall receive the other cases.

(C) Felony reductions go by the offense date of the originating felony and not the Grand jury indictment date nor the file date of the misdemeanor.

(D) Probations which have expired and have no revocation filed or pending are not considered active.

(E) Cases with active warrants, except CPF warrants, are considered pending.

(F) Serving time in jail on a case is not considered a pending case.

(G) Cases are not to be transferred on the day of trial without the consent of the accepting judge

(H) Transfers can be made between felony and misdemeanor courts. A defendant on probation in a misdemeanor court may be transferred to the supervising felony court.

(I) Cases that are filed in a court but had been pre-assigned to a different court, can be transferred to the original court assigned, where it has been previously assigned.

INITIAL SETTING

1. Upon release from jail each defendant shall be given written notice to appear in court three (3) weeks from the date of the jail release. If the defendant is released on a weekend the initial court date shall be on the Monday immediately following the two week period. If the three (3) week period ends on a holiday the first appearance shall be on the next day in which the courthouse is open.
2. If a bond is posted after release from jail, a first setting notice will be sent by the Court Coordinator from the individual court where the case is filed. The first setting notice is to inform the defendant of date, time and court.
3. If the case has not been filed when the defendant is released from jail the defendant shall be directed to the bulletin board on the 2nd floor of the courthouse. If the case has still not been assigned to a court when the defendant has been directed to the bulletin board, he shall be directed to the County Clerk on the 2nd floor of the courthouse. The case shall then be reset for an additional two (2) week period. If the case is still not assigned to a court or filed, the defendant shall be directed to telephone the county clerk's office once a week to determine if the case has been assigned to a court or filed.
4. If a case is filed with a court and the defendant has not made bond and a a warrant has been issued, the court coordinator or clerk of the court shall direct the defendant to post a bond.
5. If a case is filed with a court and a bond has been posted, Court Coordinator shall set the case with all due diligence and notify the surety and attorney of said setting.

GROUND FOR DISQUALIFICATION AND RECUSAL

(1) Disqualification

Judges shall disqualify themselves in all proceedings in which:

- (A) they have served as a lawyer in the matter in controversy, or a lawyer with whom they previously practiced law served during such association as a lawyer concerning the matter; or
- (B) they know that, individually or as a fiduciary, they have an interest in the subject matter in controversy; or
- (C) either of the parties may be related to them by affinity of consanguinity within the third degree.

(2) Recusal

A judge shall recuse himself/herself in any proceeding in which:

- (A) his/her impartiality might reasonably be questioned;
- (B) he/she has a personal bias or prejudice concerning the subject matter or a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
- (C) he/she or a lawyer with whom he previously practiced law has been a material witness concerning it;
- (D) he/she participated as counsel, adviser or material witness in the matter in controversy, or expressed an opinion concerning the merits of it, while acting as an attorney in government service;
- (E) he knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceedings, or any other interest that could be substantially affected by the outcome of the proceeding;

PROCEDURES REGARDING RECUSAL OR DISQUALIFICATION

- (A) At least ten days before the date set for trial or other hearing in any court other than the Supreme Court, the Court of Criminal appeals or the Court of Appeals, any party may file with the clerk of the court a motion stating grounds why the judge before whom the case is pending should not sit in the case. The grounds may

include the disability of the judge to sit in the case. The motion shall be verified and must state with particularity the grounds why the judge before whom the case is pending should not sit. The motion shall be made on personal knowledge and shall set forth such facts as would be admissible in evidence provided that facts may be stated upon information and belief if the grounds of such belief are specifically stated.

- (B) On the day the motion is filed, copies shall be served on all other parties or their counsel of record, together with a notice that movant expects the motion to be presented to the judge three days after the filing of such motion unless otherwise ordered by the judge. Any other party may file with the clerk an opposing or concurring statement at any time before the motion is heard.
- (C) Prior to any further proceedings in the case, the judge shall either recuse himself or request the presiding judge of the administrative judicial district to assign a judge to hear such motion. If the judge recuses himself, he shall enter an order of recusal and request the presiding judge of the administrative judicial district to assign another judge to sit, and shall make no further orders and shall take no further action in the case except for good cause stated in the order in which such action is taken.
- (D) If the judge declines to recuse himself/herself, he/she shall forward to the presiding judge of the administrative judicial district, in either original form or a certified copy, an order of referral, the motion, and all opposing and concurring statements. Except for good cause stated in the order in which further action is taken, the judge shall make no further orders and shall take no further action in the case after filing of the motion and prior to a hearing on the motion. The presiding judge of the administrative judicial district shall immediately set a hearing before himself or some other judge designated by him, and shall cause notice of such hearing to be given to all parties or their counsel.
- (E) If within ten days of the date set for trial or other hearing a judge is assigned to a case, the motion shall be filed at the earliest practicable time prior to the commencement of the trial or other hearing.

- (F) If the motion is denied, it may be reviewed for abuse of discretion on appeal from the final judgment. If the motion is granted, the order shall not be reviewable, and the presiding judge shall assign another judge to sit in the case.
- (G) The Chief Justice of the Supreme Court may also appoint and assign judges in conformity with this rule and pursuant to statute.
- (H) If a party files a motion to recuse under this rule and it is determined by the presiding judge or the judge designated by him at the hearing and on motion of the opposite party, that the motion to recuse is brought solely for the purpose of delay and without sufficient cause, the judge hearing the motion may, in the interest of justice, impose any sanction authorized by Rule 215(2)(b), Texas rules of civil Procedure.

WRIT BOND PROCEDURE FOR DALLAS CASES

1. If the Defendant has an at-large original capias warrant and the Defendant wants a bond set to avoid being arrested and booked into jail,
The Defendant Must:
 - a). E-file a Writ of Habeas Corpus (Do not put the Criminal Case number on the filing).
 - b). Notify the State of the Writ and request that the State retrieve the Defendant's criminal history and the Probable Cause Affidavit
 - c). Approach the Judge of the Court in which the Writ is filed.
 - d). The Judge will review the PSRS report, the Criminal History provided by the State, the Probable Cause Affidavit, the Writ, and any arguments by the parties.
 - e). The Judge will issue an Order either granting or denying the Writ.
 - f). If the Writ is granted, the Court will provide Defendant with a Waiver of Booking and Arraignment and place the bond amount in the appropriate area.
 - g). If a PR Bond is granted, the Court will complete the Writ Order, the PR Bond form and the Waiver of Booking and Arraignment form.
2. If the Defendant was arrested and posted bond in the municipality, but he subsequently wants his bond conditions modified, The Defendant Must
 - a). Approach the Municipal Judge who set the bond -OR-
 - b). E-file a Writ of Habeas Corpus (Do not put the Criminal Case number on the filing)
 - c). Notify the State of the Writ and request that the State retrieve the Defendant's criminal history and the Probable Cause Affidavit
 - d). Approach the Judge of the Court in which the Writ is filed.
 - e). The Judge will review the the Criminal History provided by the State, the Probable Cause Affidavit and the bond issue stated in the Writ.
 - f). The Judge will issue an Order either granting or denying the Writ.
3. If the defendant was arrested and originally brought to Lew Sterrett, the County Criminal Courts have adopted the policy that the Defendant does not need to file a Writ as the Dallas County magistrates are setting the original bond and/or bond conditions. However, if a Writ is filed in the aforementioned case, the Judge will follow the procedure as outlined in Section 2. If a Writ is filed, the Court must issue an Order granting or denying the Writ.
4. The Court will DENY Writs filed on cases in which the defendant is in custody at the municipality. The Defendant must remain in the municipal jail until he/she is transferred to Dallas County Jail or posts bond in the municipality.

Anytime a judge modifies a bond or bond conditions, the Judge will update the PSRS with any bond modifications

CASE ASSIGNMENTS

Court Order to Dallas County Clerk regarding Misdemeanor case filings:

This order shall apply to the following County Criminal Courts:

CCC 1(MA)
CCC 2(MB)
CCC 3(MC)
CCC 4(ME)
CCC 5(MF)
CCC 6(MG)
CCC 7(MH)
CCC 8(MJ)
CCC 9(MK)
CCC -App2(MM)

2. The Dallas county clerk shall insure that each of the above-referenced County Criminal Courts shall receive approximately the same amount of case filings on an annual basis. The Dallas County clerk should not file cases according to the number of cases a particular court disposes.
3. This rule does not affect rules affecting random filings or filings relating to common defendants.

COURT ASSIGNMENTS

- Cases will be assigned to each court using the current Dallas county technology system
- If the case is marked for Family Violence it will be assigned to the CCC#10 or CCC#11

**Dallas County Local Rule Relating To Judges/Magistrates Acting for
Other County Criminal Court Judges**

1. It is the Order of the Dallas County Criminal Court Judges that these rules will be subject to individual judicial discretion in all instances.
2. Absent individual judicial discretion, It is the Order of the County Criminal Court Judges that the magistrate have the power to act on the following:
 - a. Agreed pleas that may not be modified
 - b. Occupational Licenses
 - c. Jail chain agreed pleas
 - d. Bond forfeiture hearings
 - e. Competency hearings
3. Absent individual judicial discretion, the County Criminal Court Judges agree that another County Criminal Court Judge may act for the other only while the other judge is in trial or absent under the following circumstances:
 - a. Agreed pleas that may not be modified
 - b. Setting of bonds
 - c. Changing bonds
 - d. Setting aside bond forfeitures
 - e. Granting work release
 - f. Working the jail chain agreed pleas
 - g. Swearing in a witness
4. Judges shall not sign attorney pay sheets from other courts.
5. Judges shall not sign other Judge's budgetary items.

**Dallas County Criminal Court Local rules Relating to
Occupational Licenses - “ODL”**

1. It is the Order of the Dallas county Criminal Court Judges that these rules will be subject to individual judicial discretion in all instances.

2. Absent individual judicial discretion, Dallas county Criminal Court Rules regarding “ODL’s” are as follows:
 - a. All ODL requests may be referred to the Magistrate
 - b. Current proof of insurance is requiredPetitioner must provide the original petition and order plus four (4) copies
 - c. Approved ODL petition and order forms are available from the Magistrate or judge
 - d. Petitioner may appear through Attorney unless interlock device is required by law or Judge
 - e. Petitioner is responsible for filing the petition and order with the D.P.S.
3. A Petitioner may represent himself Pro Se and use any available forms

Appointments

(A) Pursuant to Texas code of Criminal Procedure Article 26.05, the County Criminal Judges refer all appointed attorney's to reference the Indigent Defense Plan for fee schedule.

(B) A judge is free to use either the “Fixed Daily Rate” or “Hourly Rates” or any combination of the two in determining what fee to pay for a case. The attorney must submit an hourly itemized invoice for payment at the hourly rate.

(C) Where the attorney disposes of multiple cases for a defendant, the court may pay the same fee per case or different amounts for each case.

(D) Fee disputes with the presiding judge or the county auditor, should be handled Pursuant to Criminal Code of Procedure §26.05 ©).

(E) The appointed attorney is responsible for submitting a voucher through the Indigent Defense System

(F) All approval or removal of attorney, will follow the guidelines of the Indigent Defense plan.

Felony Court Appointed Attorney Wheel.

(a) The county criminal court judges will adopt the Felony Court Appointed Attorney Wheel, on cases with the same defendant. The felony attorney must respond within 24 hours of the acceptance of the case or be replaced.

(b) In situations where a defendant has a court-appointed attorney on a pending on felony, the county criminal courts may appoint the same attorney as the felony court any misdemeanor pending against that defendant.

Appointment of Experts, Investigators or Translators

(a) An attorney appointed to represent a defendant in the county criminal courts may employ experts, investigators or translators as needed. The court will reimburse

reasonable and necessary fees associated with experts, investigators or translators. The attorney will need to submit the form for approval **before** disposition of the case, if prior approval of the relevant expenses is gained from the Court. All other reasonable and necessary fees associated with experts,

investigators or translators will be reimbursed to the appointed attorney after final disposition of the case.

- (b) To be reimbursed, an investigator used by an attorney appointed to represent a defendant must be licensed under Chapter 1702 of the Texas Occupations Code.
- (c) Advanced requests to a court for investigative expenses must comply with Texas Code of Criminal Procedure Section 26.052 (f). Denial of advanced requests for investigative expenses will be handled pursuant to Texas Code of Criminal Procedure Section 26.052(g).
- (d) To be reimbursed, a translator used by an attorney appointed to represent a defendant must be licensed under Chapter 57 of the Texas Government Code.

DECORUM

General Provisions

- (a) All court personnel and lawyers practicing in the county criminal courts shall treat each other, citizens accused, complainants, witnesses and all members of the public seeking the services of the courts, with respect, patience, and understanding.
- (b) The Code of Judicial Conduct is incorporated into these rules.
- (c) The Texas Rules of Disciplinary Procedure are incorporated into these rules.
- (d) Lawyers are responsible for informing their employees, clients, witnesses and other members of the public accompanying the lawyer into the courts about the necessary level of decorum required in the courts.
- (e) Each judge is free to develop additional rules of decorum, modify these rules of decorum or waive the applicability of these rules of decorum for their court. Any additional or modified rules of decorum must be posted in the court coordinator's office.

Decorum in the Courtroom

A. Dress

- 1. Caps, hats and other head wear are not permitted in the courtroom.
- 2. Shorts are not permitted in the courtroom unless they are part of a uniform necessary for the person's work or position.
- 3. Lawyers are required to wear suits when appearing in court for a jury trial or appropriate equivalent.

B. Cell Phones

1. Cell phones and other electronic devices are not permitted to ring or emit any audible noise, other than a vibration, while in the courtroom.
2. When engaging the court at the bench or otherwise while the court is in session, cell phones and other electronic devices are not permitted to be used.

C. Food, water, Gum and Tobacco

1. No food is permitted within the court except during special occasions or when necessary for medical reasons. Leave to bring food into the courtroom must be gained from the Court.
2. Only liquid contained in a plastic bottle with a closed top or any closed lid container is permitted in the court with the exception of water pitchers and cups located at counsel table and the witness stand.
3. Tobacco use of any kind is not permitted in court.

D. Prohibited Conduct

1. No propping of feet on tables or chairs.
2. No sitting on tables or banisters.
3. No talking that interferes with court proceedings.
4. No outbursts or disruptive behavior that interferes with court proceedings

Decorum during Trial

- (a) Attorneys must stand when addressing the court;
- (b) Counsel and their client(s), must stand when the verdict is read;
- (c) All objections, arguments and other comments by counsel shall be directed to the judge or jury and not to opposing counsel;
- (d) While another attorney is addressing the judge or jury, an attorney should not stand for any purpose except to claim the right to interrupt the attorney who is speaking;
- (e) Attorneys should not approach the bench without leave of court and must never lean on the bench;
- (f) Attorneys shall remain seated at the counsel tables at all times except when the judge or jury enters and leaves the courtroom; when addressing the judge or jury; and whenever it is necessary to handle evidence.

Professionalism

A. Timeliness

1. Courts should notify the attorneys when there will be a delay in a scheduled court proceeding.
2. Attorneys must notify the court when they will be later than five minutes for any contested proceeding or plea setting.

B. Priority of Court Settings:

1. Attorneys owe a duty to the courts they practice in to be available to attend to their matters at the time the matters are scheduled.
2. Courts should respect that attorneys may have multiple court settings and not unreasonably prevent the attorney from attending to cases in other courts.
3. The following are guidelines courts and attorneys should use in determining priority:
 - (a) Contested proceedings already in progress take priority over all other matters in other courts.
 - (b) A setting for a contested proceeding that will be determinative of a case or an issue in that case, takes priority over settings for non-contested proceedings. For example, a jury trial setting in a medical malpractice case takes priority over a setting for an agreed probation plea.
 - (c) Settings in criminal cases take priority over settings in non-criminal cases. For example, a setting in a misdemeanor marijuana case takes priority over a setting in a divorce case where child-custody is an issue.
 - (d) Settings in jail cases take priority over settings in non-jail cases.
 - (e) The severity of the criminal case dictates its priority as to other criminal cases. Severity is determined by what the maximum punishment could be.
 - (f) Court settings in counties not adjacent to Dallas County, do not take priority over a county criminal court case in Dallas County unless it is a contested proceeding already in progress.

Visiting Judge/Magistrates

A. Appointment of Visiting Judge/Magistrate Judge

1. The judge of the county criminal courts may appoint a magistrate pursuant to Section 54.301 of the Texas Government Code.
2. The appointed magistrate must submit his or her name for reappointment on or by December 1st in the year which they were appointed. Upon the submission for reappointment, the magistrate judge will be subject to a performance review by the appointing judges. Unanimous approval of all the county criminal court judges is necessary for reappointment.
3. The county criminal court judges will review the need for one or more magistrates annually.
4. The court manager for the county criminal courts will be responsible for posting the availability of the magistrate position when necessary. The court manager will also be responsible for managing the search for a new magistrate when necessary.

B. Duties of the Visiting Judge/Magistrate Judge

1. The general working hours for the magistrate judge are from 8:00 a.m. to 4:30 p.m., Monday through Friday of every week, not including legal or county holidays.
2. The magistrate is to be specifically available between 12:00 p.m. to 1:30 p.m., on the days the court is working.
3. Time off in the form of vacation, sick time, or for emergencies, will be liberally granted to the magistrate. Time off requests should be made to the presiding judge of the county criminal courts. Time off for emergencies should be relayed to the presiding judge or the court manager.
4. A county criminal court judge may refer proceedings pursuant to Section 54.306 of the Texas Government Code. The following proceedings may be referred to the magistrate court:
 - (a) Request for occupational drivers' licenses;
 - (b) Contested competency hearings;
 - (c) Administrative license revocation hearings or appeals;

Local Administrative Judge

A. Duties and Limitations

1. To create and maintain written procedures on the responsibilities of the local administrative judge and to make those written procedures available to the other statutory county court judges and county court managers.
2. To give full effect to the local rules of the county criminal courts when deciding matters pertaining to those courts, pursuant to Section 74.092 (1) of the Texas Government Code.
3. The Local Administrative Judge does not select, fire, or hire the County Criminal Court Manager.

B. Selection of the Local Administrative Judge

1. The local administrative judge is elected by a majority vote of the county criminal court judges and the county courts-at-law judges.