ADMINISTRATIVE ORDER NUMBER 2025-02

# ORDER AMENDING LOCAL RULE

Texas law accords the Harris County Criminal Courts at Law authority to adopt, by an affirmative vote of two-thirds of the judges, local rules for practice and procedure before those courts. TEX. GOV'T CODE §75.403. On September 30, 2025, the judges exercised that authority, voting to adopt the following rules, effective immediately.

Signed this, the 7th day of October, 2025.

**The Hon. Erika Ramírez**
Presiding Judge
Harris County Criminal Courts at Law

# RULES OF COURT

## Harris County Criminal Courts at Law

As amended through September 30, 2025

# Contents

RULE 1. GENERAL PROVISIONS ..... 4

RULE 2. PROCEDURE FOR THE FILING OF CASES ..... 4

RULE 3. TRANSFER OF CASES ..... 7

RULE 4. INITIAL SETTINGS ..... 8

RULE 5. ADDING CASES TO THE DAILY DOCKET ..... 14

RULE 6. DOCKETING OF MISDEMEANOR INDICTMENTS ..... 15

RULE 7. DOCKETING OF APPEALS FROM NON-RECORD MUNICIPAL COURTS, JUSTICE OF THE PEACE COURTS, MUNICIPAL COURTS OF RECORD, AND ADMINISTRATIVE LICENSE REVOCATION HEARINGS PURSUANT TO CHAPTERS 524 AND 724 TEXAS TRANSPORTATION CODE ..... 15

RULE 8. DOCKETING OF CASES: JUDGE RECUSAL OR DISQUALIFICATION ..... 16

RULE 9. BAIL POLICIES ..... 17

RULE 10. REFUND OF CASH BONDS ..... 24

RULE 11. BOND FORFEITURE REINSTATEMENTS, DISMISSALS, AND JUDGMENTS ..... 24

RULE 12. APPROVAL OF PERSONAL BONDS ..... 25

RULE 13. SIGNING OF PLEADINGS ..... 25

RULE 14. PREPARATION OF JUDGMENTS ..... 25

RULE 15. PETITION FOR OCCUPATIONAL DRIVER'S LICENSE ..... 25

RULE 16. ATTORNEY OF RECORD ..... 26

RULE 17. JUVENILE DEFENDANTS ..... 27

RULE 18. COUNTY CRIMINAL COURT MANAGEMENT PROGRAM ..... 27

RULE 19. CODE OF JUDICIAL CONDUCT ..... 29

RULE 20. COURT REPORTERS ..... 30

RULE 21. SATISFACTION OF JUDGMENT: ORDER PERMITTING PARTIAL PAYMENT ON FINES AND COSTS 30

RULE 22. RELEASE OF CLERK'S RECORD TO COUNSEL ..... 30

RULE 23. ALTERNATIVE PLAN FOR THE APPOINTMENT OF COUNSEL TO INDIGENT DEFENDANTS UNDER THE FAIR DEFENSE ACT ..... 31

RULE 24. ASSOCIATE JUDGES ..... 47

RULE 25. DISASTER PLAN ..... 48

RULE 26. SLIDING-SCALE FEE SCHEDULE FOR GLOBAL POSITIONING SYSTEM ..... 49

## RULE 1. GENERAL PROVISIONS

**1.1.** These amended rules take effect MARCH 11, 2025.

**1.2.** These rules, in conjunction with the Code of Criminal Procedure, and the Government Code, govern proceedings in the Harris County Criminal Courts at Law. These rules shall not be construed as extending the jurisdiction of these courts, nor shall they be construed to overrule or conflict with the Texas Government Code, Texas Code of Criminal Procedure, Texas Penal Code, Texas Rules of Evidence, Texas Rules of Appellate Procedure or the ODonnell Consent Decree. These rules are intended to govern local proceedings where such rules are not in conflict with existing law and where such rules are consistent with state statutory law and rules promulgated by the Texas Court of Criminal Appeals and the Texas Supreme Court.

**1.3.** The district clerk shall not make any changes with regard to random filing, numbering of cases, docketing of cases, transfer of cases, assignment of settings, or any other matters that affect the distribution of work or the conduct of the business of the Harris County Criminal Courts at Law unless so directed by the Judges of the County Criminal Courts at Law.

**1.4.** The following rules shall govern the assignment of misdemeanor cases and other matters within the jurisdiction of the County Criminal Courts at Law of Harris County, Texas.

## RULE 2. PROCEDURE FOR THE FILING OF CASES

### 2.1. Numerical Sequence

2.1.1. Each criminal and civil case filed and docketed into the county criminal courts at law shall be assigned a sequential number based on the following case number structure.

2.1.2. Beginning January 1, 2000, case numbers shall consist of seven numerical digits, the first case number filed on January 1, 2000, shall be "0978400." Case numbers shall continue sequentially thereafter, which scheme shall allow cases to be numbered through 9,999,999.

### 2.2. Random Filing

2.2.1. All misdemeanor proceedings filed with the district clerk shall be randomly assigned by the district clerk to the various county criminal courts at law. This shall be accomplished by means of a blind filing process that 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 the assignment occurs.

2.2.1.1. Exception for presiding judge: The presiding judge of the Harris County Criminal Courts at Law may, at their discretion, receive 20% fewer new case filings while acting in that capacity. To accomplish this, the district clerk shall assign 4 cases to the County Criminal Court at Law to which the presiding judge is elected for every 5 cases assigned to each other County Criminal Court at Law.

2.2.2. The primary means of assignment of cases shall be through the use of a computer program that provides for the random assignment and equal distribution of cases. The computer program shall be capable of maintaining a journal of filings and distribution of cases that will permit periodic or random audit to determine whether the program is assigning cases as intended.

2.2.3. If the primary means of assignment, the computer program, is not available, the district clerk's office shall use the manual random selection device for the filing of cases into the county criminal courts at law. Prior to each case assignment, the random selection device shall be rotated on its axis, and one ball therein shall be withdrawn. The court number indicated on the ball randomly chosen shall become the assigned court for the case. The district clerk shall add the ball back into the random selection device immediately, so as to not disturb the random filing and docketing of all other cases into the county criminal courts at law.

2.2.4. The clerk shall receive, assign and account for all cases in ascending numerical sequence.

**2.2.5. How Criminal Cases Are Attracted To Courts**

2.2.5.1. Before using the computer program or the manual random selection device to determine court assignment for a given case, the district clerk shall determine by research whether the defendant named in the misdemeanor information has a prior connection to an existing case in any of the county criminal courts at law. A prior connection is established when:

2.2.5.1.1. a defendant is presently on community supervision in one of the county criminal courts at law;

2.2.5.1.2. a defendant is charged with driving while intoxicated, committed within five years of the date on which the most recent DWI offense was committed;

2.2.5.1.3. a defendant using a valid occupational driver's license granted by the judge of a county criminal court at law is charged with another DWI (Driving While Intoxicated) or DWLI (Driving While License Invalid);

2.2.5.1.4. a lower numbered cause, including a pending appeal of a class C offense from a justice or non-record municipal court, is pending against the defendant/codefendant in a county criminal court at law;

2.2.5.1.5. a defendant is charged and the charge arose from the same criminal transaction that was the basis of a misdemeanor information previously filed on a co-defendant;

2.2.5.1.6. a defendant has not discharged a prior sentence of confinement; or

2.2.5.1.7. a defendant appealed a final judgment, order granting community supervision, or denial of relief in a post-conviction habeas corpus proceeding that is still pending before a court of criminal appeals.

2.2.5.2. If one of the above prior connections exists, the new misdemeanor case shall be attracted to the court in which the defendant has the prior connection. If more than one prior connection exists, the new misdemeanor case shall be attracted to the court involved in the prior connection appearing first as listed above.

2.2.5.3. If a defendant has a pending case and is charged with a new case that would attract to a different court under these rules, all pending cases shall transfer to the different court (see Rule 3).

2.2.5.4. In the event that a case is attracted to a court in error, then the coordinator of the court receiving the case in error shall complete a transfer order to be signed by the presiding or co-presiding judge that orders the case back into rotation. The order is then returned to the district clerk for compliance therewith.

**2.2.6. Filing of Cases Charging Public Lewdness, Gambling Offenses, Prostitution, Violations of the Alcoholic Beverage Code, or County or Municipal Ordinances Relating to Sexually Oriented Businesses**

2.2.6.1. There is no attraction by either codefendant or transaction in cases charging public lewdness, prostitution, violations of the Alcoholic Beverage Code, gambling offenses, or county or municipal ordinances relating to sexually oriented businesses. The clerk shall apply all other rules of attraction.

**2.2.7. Appeals From Justice of the Peace Court, and Non-Record Municipal Courts**

2.2.7.1. The rules of attraction shall apply to an appeal from a judgment in a criminal case from a justice of the peace court, or non-record municipal court in the same manner as an original criminal case.

**2.2.8. Re-files, Writs of Habeas Corpus, Mandamus, Prohibition, Restricted Driver Licenses, Fugitives**

2.2.8.1. If a case is re-filed, it shall be assigned to the same court as the case it supersedes. The district clerk is then authorized to attract and set the re-filed case in the court where the initial misdemeanor information is or was pending. The setting date assigned to the re-filed case will be the same date as that of the initial pending case. If the initial case is no longer pending, the re-filed case shall be set in accordance with the rules governing the filing of new cases.

2.2.8.2. Motions for leave to apply for a writ of habeas corpus, mandamus, or prohibition shall be filed pursuant to an order by the court agreeing to hear those matters. Petitions for restricted driver licenses shall be filed in the court in which the conviction was entered and the driver license suspended. Petitions for restricted driver licenses filed by a Harris County resident that result from a suspension for an offense committed in another county (other than for driving while intoxicated or an offense or administrative violation that results in a suspension) shall be filed in any court agreeing to hear the matter, or as provided for in subsection B of Rule 2. Fugitive cases shall be filed in County Criminal Court at Law No. 10.

2.2.8.3. Unless the above categories of 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.

**2.2.9. Appeals From The Administrative Suspension of a Person's Driver's License as Provided by Texas Transportation Code Chapters 524 and 724**

2.2.9.1. See Rule 7.

**2.2.10. Petitions for Occupational Driver's License**

2.2.10.1. See Rule 15.

**2.3. Application of Bail Schedule; Request for Departure**

2.3.1. In all cases, Pretrial Services shall follow the bail reflected in Rule 9. Pretrial Services shall immediately convey this bail amount to the district clerk. If the filed case requires an individualized hearing under Rule 9.4, and no initial bail amount is recorded, Pretrial Services shall convey that fact to the district clerk.

**2.4. Designation of Initial Bail by District Clerk Upon Case Filing**

2.4.1. Upon receiving a new complaint, the district clerk shall enter the bail set by a judicial officer. If no judicial officer has set bail, the district clerk shall approach a judicial officer so one can be set in accordance with Local Rule 9.

## RULE 3. TRANSFER OF CASES

**3.1. Research by Clerk**

3.1.1. Upon filing and docketing of a misdemeanor indictment or information into the county criminal courts at law, the district clerk will determine by research whether the named defendant has a prior connection in any of the county criminal courts at law. This research shall be done in accordance with the criteria established in Rule 2.

**3.2. Re-filing of Cases**

3.2.1. All re-files of cases pending or dismissed shall be filed and docketed in accordance with statutory rotation. The district clerk is authorized to transfer and set the re-filed case in the court where the initial misdemeanor indictment or information is or was pending. If the initial case is pending, the setting date assigned to the re-filed case will be the same as that for the initial case. If the initial case is not pending, the re-filed case shall be given an appropriate setting in accordance with these rules.

3.2.2. All writs of habeas corpus, contempt, and ex parte matters shall be filed and docketed in accordance with these rules. The district clerk is authorized to transfer and set the proceedings in the court where a prior case connection exists or, if no prior connection exists, to transfer the proceeding to the court wherein the hearing on such proceedings is to be conducted.

**3.3. Special Transfer Situations**

3.3.1. S.O.B.E.R. Court Transfer on Motion to Revoke

3.3.1.1. Upon receiving a motion to revoke the probation of a defendant in S.O.B.E.R. Court, and upon consent of the defendant, the judge presiding over the S.O.B.E.R. Court shall sign a docket notation that the case is to be transferred to a judge presiding over a different S.O.B.E.R. Court and specify the court to which the case is to be transferred as directed below.

3.3.1.2. The Office of Court Management shall maintain a list of all judges presiding over S.O.B.E.R. Court dockets in numerical order by court number. Upon receiving notice that a case is to be transferred under this subsection, the Office of Court Management will consult the list and tell the sending court which judge is next on the list (in sequential order) to receive a revocation transfer. If the sending judge would otherwise be next on the list, the case will be assigned to the following judge and the sending judge will receive the next revocation for which they are eligible.

3.3.1.3. The sending judge shall sign an order transferring the case to the receiving judge. The judges, coordinators, and clerks shall then proceed as with any other case transfer.

**3.4. Docket Notation**

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

**3.5. Transfer Order**

3.5.1. After the docket notation is completed, the clerk 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 clerk of the receiving court. The clerk of the receiving court will obtain the receiving judge's signature on the transfer order. At that time, the receiving coordinator will set the case in the receiving court and complete the setting information on the bottom of the transfer order.

**3.6. Entry of Transfer Order**

3.6.1. The clerk of the receiving court will deliver the completed transfer order and the court file to the district clerk's office. The transfer order will be entered and verified in the records maintained by the Justice Information Management System. The entries in the court case file will be completed prior to data entry/data verification of the transfer order. A copy of the completed transfer order bearing the transaction number will be filed in the court's case file. Duplicate copies of the transfer order shall also be provided to the clerk of the receiving court for delivery to the assistant district attorney assigned to that court and to the defense attorney of record.

**3.7. Justice Information Management System Update**

3.7.1. The district clerk shall update the Justice Information Management System records with the case setting date of the receiving court, and shall enter the reason for the transfer. At that time, the setting record remaining in the transferring court will be closed.

## RULE 4. INITIAL SETTINGS

**4.1. First Settings**

4.1.1. The first setting date of the case shall initially be known as the arraignment setting, and it shall be provided by the district clerk on all cases except those filed as non-arrests, where instead a capias is issued for the defendant. The clerk shall set first settings in the following manner:

4.1.2. Cases filed on Monday through Thursday shall be set for arraignment on the same day of the following week. Cases filed on Friday, Saturday, or Sunday shall be set for arraignment on the following Friday. An arraignment setting shall not affect statutory timelines for determining indigence or appointing counsel.

4.1.3. Non-arrest cases shall be set for arraignment in accordance with the above rules upon the filing of an executed capias.

4.1.4. A defendant released from custody on a personal bond under the conditions described in TEX. CODE CRIM. P. ANN. art. 17.033, will be set to appear in the court in which the case is pending no less than 72 hours after release, unless the defendant or defendant's counsel request an earlier time of appearance.

4.1.5. Cite and release cases shall be set for arraignment on the 3rd Wednesday from the date the citation was issued. If the 3rd Wednesday falls on a holiday, the case shall be set for arraignment on the 4th Wednesday from the date the citation was issued.

4.1.6. The criminal law hearing officer ordering the defendant to be released shall, at the time the defendant signs a personal bond, order the defendant, in writing, to appear as provided above, and the hearing officer shall also direct personnel from the Pretrial Services Department to provide the defendant with written notice of the date, time and place that the court will be in session.

4.1.7. The hearing officer who orders the defendant's release shall immediately notify, by e-mail, the judge and the coordinator of the court in which the defendant is set, notifying them of the defendant's release and pending appearance in that court.

4.1.8. The district clerk shall enter the first setting at the time the complaint and information are filed. The setting information shall be reflected on the complaint document above the misdemeanor charge literal in a manner that will provide the setting information on all copies of the indictment, information, and complaint. Further, when a bond is filed with the district clerk, the district clerk shall provide written notice of the case's first setting date to the person filing the bond.

## 4.2. Probable Cause Hearings for Further Detention

### 4.2.1. Appearance Before A Criminal Law Hearing Officer

1.4.1.1. When the district clerk files an indictment, information, or complaint alleging the commission of a misdemeanor offense within the jurisdictional limits of a county criminal court at law and the defendant is in the custody of law enforcement officials in Harris County, the district clerk shall update the electronic records in the automated system to reflect that charges have been filed. Further, by general order of the judges of the county criminal courts at law, all law enforcement officials in Harris County shall cause the pretrial detainees in their respective custody, who have been charged with a class A or class B misdemeanor, to be delivered to the criminal law hearing officer not later than 24 hours after arrest for the purpose of conducting a hearing to determine probable cause for further detention. Personnel and electronic files, along with original and hard copy files, where appropriate, from the district attorney, district clerk, and Pretrial Services Department necessary to conduct the hearings shall be present and made available to the criminal law hearing officer. All detainees will be deemed to have been "taken before a judge or judicial officer" if they are physically present at the hearing, or if their participation is achieved by the use of high-speed, two-way audio/video transmission technology. In circumstances where audio/video technology is utilized, the entire hearing must be recorded and maintained by the court for a period of one hundred twenty (120) days after the hearing. A written record of the proceedings shall be made.

### 4.2.2. Representation by Counsel

4.2.2.1. Counsel may appear for a hearing under TEX. CODE CRIM. P. ANN. art. 15.17.

4.2.2.2. If counsel does not otherwise appear, the Harris County Public Defender shall represent for all purposes, in the interest of justice and absent any legal conflict, all defendants before a criminal law hearing officer, unless the arrestee executes a knowing and voluntary waiver of representation. The Public Defender's appointment under this provision does not extend beyond the conclusion of the Article 15.17 hearing. The Public Defender may delegate these duties to an Assistant Public Defender.

### 4.2.3. Hearing Actions

4.2.3.1. The criminal law hearing officer shall perform the following for every person for whom a hearing is conducted:

4.2.3.1.1. inform the accused in clear, understandable language, or through the use of an interpreter consistent with TEX. CODE CRIM. P. ANN. arts. 38.30 & 38.31, as appropriate, of the charges against him and of any complaint or information that may have been filed against him;

4.2.3.1.2. inform the accused of the accused's right to retain counsel; of the accused's right to remain silent; of the accused's right to have an attorney present during any interview with peace officers or prosecutors; of the accused's right to terminate police interrogation at any time; of the accused's right to request the appointment of counsel if the accused is indigent; inform the accused of the process for requesting an appointed attorney; ask the accused if the accused requests appointed counsel; and inform the accused that any statement the accused makes can and probably will be used against the accused at trial;

4.2.3.1.3. if the accused affirmatively requests appointed counsel, the judicial officer shall, if assistance is requested, instruct Pretrial Services Department personnel to assist the accused in completing the form. Pretrial Services Department personnel shall assist the accused in completing the form.

4.2.3.1.4. if the accused has not yet been interviewed, Pretrial Services Department personnel shall promptly conduct an interview;

4.2.3.1.5. record the fact that the accused does not request appointed counsel, if applicable;

4.2.3.1.6. immediately forward, or cause to be forwarded, a request for appointed counsel and any supporting documents to the judge of the court in which the case is pending;

4.2.3.1.7. 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 officer, except in those cases where arrest was pursuant to the issuance of a warrant;

4.2.3.1.8. in cases involving the offense of stalking or family violence, determine whether a magistrate's order for emergency protection should be entered;

4.2.3.1.9. 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 district clerk;

4.2.3.1.10. upon a finding that no probable cause for further detention exists, the criminal law hearing officer shall issue a signed order to the sheriff to immediately release the accused from custody in that case; and

4.2.3.1.11. upon a finding that probable cause for further detention exists, the criminal law hearing officer shall, after determining whether the accused is currently on bail for a separate criminal offense, set the amount of bail required of the accused for release and shall determine the eligibility of the accused for release on personal bond, cash bond, surety bond, or other alternative to the bail amounts, and shall issue a signed order remanding the defendant to the custody of the sheriff. A copy of such finding and return by the sheriff shall be retained by the district clerk in the case file.

4.2.3.1.12. Judicial officers taking an action as identified above shall direct the clerk to make appropriate entries into the automated system as the facts and law require, as set out below:

4.2.3.1.12.1. PC FOUND. Used when probable cause is found (i.e. on "to be" warrants, or when defendant is not present)

4.2.3.1.12.2. WARNS GIVEN. Used when the statutory warnings are given, PC has already been done.

4.2.3.1.12.3. PC/WARNS DONE. Used when the Judge/Magistrate does both.

### 4.2.4. Initial Bail

4.2.4.1. The initial bail amount for misdemeanor offenses occurring within the County Courts at Law's jurisdiction is regulated by Local Rule 9.2 and shall be referred to by the criminal law hearing officer. Bail amount for cases that fall under Local Rule 9.4.1-9.4.6 may be changed on motion of the court, the hearing officer, or any party subject to the following criteria:

4.2.4.1.1. the bail shall be sufficiently high to give reasonable assurance that the defendant will comply with the undertaking;

4.2.4.1.2. 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;

4.2.4.1.3. the ability to make bail is to be regarded, and proof may be taken upon this point;

4.2.4.1.4. the future safety of the victim and the community may be considered, and if this is a factor, release to a third person should also be considered; and

4.2.4.1.5. the criminal law hearing officer shall also consider the employment history, residency, family affiliations, prior criminal record, previous court appearance performance, and any outstanding bonds of the accused.

**4.2.4.2. Monitoring of Incarcerated Defendants**

4.2.4.2.1. It shall be the responsibility of the courts' coordinators to monitor daily the status of each detainee still in custody to determine whether the detainee has appeared before the criminal law hearing officer for a detention hearing. If a detention hearing has not been held, the court will hold a hearing as set forth above. The court will also consider the issue of appointment of counsel where raised by the defendant.

**4.3. Next Business Day Setting for Those Incarcerated In the Harris County Jail**

4.3.1. The initial arraignment setting pursuant to Rule 4.1.2 shall be replaced with a bail review hearing setting for any arrestee who is in custody in the Harris County Jail. The arrestee shall appear before the court in which the case is pending on the business day following the booking date. Absent a waiver by the defendant and defense counsel, the court will review conditions of release, bail amount set, and personal bond decision and modify if good cause exists to do so. These hearings will be conducted at regular docket calls on Monday through Friday and the judge shall perform all necessary functions under the law (determining probable cause if necessary, performing an Article 15.17 proceeding if not previously done, assessing indigency and appointing counsel if appropriate, etc.). The defendant shall be docketed in accordance with the following schedule, and in such cases the initial seven-day setting shall be canceled.

| **Court Appearance Schedule** | | | |
|---|---|---|---|
| **Date Booked** | | **24-Hour Appearance** | |
| Sunday | 0000-2400 | Monday | 0900 |
| Monday | 0000-2400 | Tuesday | 0900 |
| Tuesday | 0000-2400 | Wednesday | 0900 |
| Wednesday | 0000-2400 | Thursday | 0900 |
| Thursday | 0000-2400 | Friday | 0900 |
| Friday | 0000-2400 | Monday | 0900 |
| Saturday | 0000-2400 | Monday | 0900 |

4.3.2. At all other times (weekends, holidays, and nights), defendants booked into the county jail on any and all process pending in or issued out of the county criminal courts at law, shall

be brought immediately before a criminal law hearing officer who shall determine if probable cause exists for the continued detention of the defendant.

## 4.4. Subsequent Settings

**4.4.1.** All subsequent settings of misdemeanor cases shall be the specific responsibility of the judge or coordinator of each of the county criminal courts at law, and in accordance with the court setting notification instructions provided in the O'Donnell Consent Decree. Furthermore, a notice of setting will be in writing and filed with the district clerk, or provide notice by entry on the court's docket sheets. That notice is to be used by the clerk for recording data in the automated system.

### 4.4.2. Bond Reinstatement

4.4.2.1. When a case is again active because of the reinstatement of a bond, either with or without cost, the district clerk shall enter a seven-day setting, except when a setting already exists in the system. When a setting already exists, the date in the system shall prevail as the next setting date.

### 4.4.3. Bench Warrants and Attachments

4.4.3.1. Such documents shall have a setting date in the body of the document and the district clerk shall set accordingly.

### 4.4.4. Summons in Lieu of Capias

4.4.4.1. When a misdemeanor information is filed against a corporation in, for example, a pollution case, the process issued shall be a summons rather than a capias. The summons shall require that the corporation make an appearance at 10:00 A.M. on the first Monday next following the expiration of twenty days from the date of service.

4.4.4.2. When a summons is used against a defendant in lieu of a capias in a misdemeanor information that is a re-file of an earlier-filed misdemeanor information, the appearance date on the newly filed case shall be set for the same date as the earlier filed case, except when the earlier filed case has no setting. In that event, both cases shall be set for seven days, and the setting in the re-filed case shall be for arraignment.

4.4.4.3. Neither a summons nor a capias may issue without a judicial finding of probable cause.

### 4.4.5. Notice of Appeal

4.4.5.1. The district clerk shall notify the court coordinator or judge of the court when a notice of appeal is filed in a case in which the court either has entered judgment or suspended the imposition of judgment. The court coordinator shall place the case on the court's docket as directed by the judge, or on the next regular business day. The court coordinator shall notify the defendant and the defendant's attorney-of-record of the setting.

### 4.4.6. Notice to Court When Appeal Bond Not Filed

4.4.6.1. When a defendant has given notice of appeal and an appeal bond has not been filed in the papers of the cause within forty-eight hours, a report shall be sent to the court apprising the court that an appeal bond has not been filed. Upon receiving such a report, the court shall notify the appellant/defendant's attorney. If the appellant/defendant has no attorney, the appellant/defendant shall appear before the court. If the appellant/defendant does not post an appeal bond, the court shall issue a capias for the appellant/defendant.

**4.4.7. Mandate of Abatement**

4.4.7.1. The district clerk and court coordinator shall notify the staff attorney for the county criminal courts at law upon receipt of a mandate or order of abatement. The court coordinator shall set a date from fourteen (14) to twenty one (21) days from the date of receipt of order or mandate. The coordinator shall notify the surety, the principal, and the attorney-of-record by certified mail.

**4.4.8. Mandates of Affirmance and Reversal and Remand**

4.4.8.1. The district clerk, upon receipt of an order or mandate, shall determine whether the defendant is in the Harris 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 district clerk shall immediately issue a capias for the defendant, provide a seven-day setting, and forward the information to the court coordinator. Immediately upon receipt of the information from the clerk, the court coordinator shall notify the attorney-of-record on appeal, the surety on the appeal bond, if one exists, and the appellant by regular mail. The court coordinator shall also attempt to notify the above parties by telephone.

**4.4.9. Violation of Post Judgment Orders**

4.4.9.1. The Sheriff shall bring any person arrested for violating a post judgment order issued by a Judge of a County Criminal Court at Law before a Criminal Law Hearing Officer. The Hearing Officer shall determine the identity of the person, and conduct a hearing on the reasons for the person's arrest and enter such orders as provided by law.

**4.4.10. Petitions for Non-disclosure**

4.4.10.1. In accordance with TEX. GOV'T CODE § 411.081(d) petitions for non-disclosure are filed with the district clerk, a fee is paid, and the case is set.

4.4.10.2. Petitions filed under this section will be set by the district clerk, upon collection of the filing fee for fourteen days from the date the petition is filed, or as ordered by the court.

## RULE 5. ADDING CASES TO THE DAILY DOCKET

5.1. Only the judge or the coordinator of the court may approve the addition of a case to the docket.

5.2. To request the addition of a case to the court's docket, the requesting party (district attorney, defense attorney, court clerk, sheriff, et cetera), shall submit to the court coordinator the case number, defendant's name and status (jail or bond), and the reason for the request.

5.3. Those cases approved for addition to the court's docket will be submitted via the county criminal courts at law add-on form to the clerk of the court by 3:00 p.m. of the day before the case(s) is/are to be added to the docket. Jail cases may be exempt from this time requirement.

## RULE 6. DOCKETING OF MISDEMEANOR INDICTMENTS

**6.1.** Upon receipt of a misdemeanor indictment returned by a Harris County grand jury and certification that the case is to be transferred to the docket of the county criminal courts at law, the case shall be randomly filed and docketed into the county criminal courts at law in the manner prescribed by law and in accordance with these rules. The district clerk shall endorse the amount of bail upon the papers of the case in accordance with the bail schedule provided by these rules. The district clerk shall then issue a capias to the sheriff of Harris County, who shall immediately attempt to apprehend the defendant.

## RULE 7. DOCKETING OF APPEALS FROM NON-RECORD MUNICIPAL COURTS, JUSTICE OF THE PEACE COURTS, MUNICIPAL COURTS OF RECORD, AND ADMINISTRATIVE LICENSE REVOCATION HEARINGS PURSUANT TO CHAPTERS 524 AND 724 TEXAS TRANSPORTATION CODE

### 7.1. Non-Record Municipal Courts, and Justice of the Peace Courts:

#### 7.1.1. Case Numbering, Filing and Rules of Attraction

7.1.1.1. All cases received by the district clerk of Harris County, Texas, from a non-record municipal court, or justice of the peace court for the purpose of appealing a misdemeanor conviction entered in such court shall receive a case number and assigned a court in the same manner as a criminal case filed by misdemeanor information or indictment, and using the same rules of attraction.

#### 7.1.2. Notice To Appellant

7.1.2.1. The de novo appeal shall be set for arraignment and pretrial hearing (as provided by TEX. CODE CRIM. P. ANN. art. 28.01) thirty (30) days from the date that notice of the hearing is sent via regular mail by the district clerk to the defendant at the address shown on his bond. If the bond shows no such address, the notice may be addressed to one of the sureties on the bond. If there are no sureties on the bond, notice shall be sent to the defendant at the address shown on the complaint, or ticket made the basis of the prosecution. The provisions of TEX. CODE CRIM. P. ANN. art. 28.01 shall control the filing and hearing of all matters and the conduct of the proceedings.

#### 7.1.3. Contents of Notice

7.1.3.1. The notice shall contain the cause number assigned to the appeal and the court into which the case was assigned; the time, date, and location of the court in which the defendant is to appear; and shall contain the following statement:

> "The court has scheduled your arraignment and a pretrial hearing in this case on the above date. At this setting you will be asked to enter a plea of not guilty, nolo contendere, guilty, or make any other special plea provided by law. In addition, the Court will hear any matters you or your attorney wish to raise

prior to trial at this time. These matters must be raised by written pretrial motion filed with the clerk of the court not later than seven (7) days before the hearing date, unless you receive permission from the judge of the court to file them on another date."

#### 7.1.4. Defendant in Custody

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

### 7.2. Municipal Courts of Record

#### 7.2.1. Case Numbering

7.2.1.1. Each appellate transcript shall be assigned a sequential number using the system established by these courts in 1976.

#### 7.2.2. Case Filing and Rules of Attraction

7.2.2.1. The district clerk shall file the appellate record into the courts on a rotational basis.

7.2.2.2. Before assigning a court, the district clerk shall determine by research whether the defendant named in the appeal has a prior connection to an existing appeal. A prior connection is established when a prior pending appeal from a municipal court of record exists.

7.2.2.3. The district clerk shall file a subsequent appeal in the same court if: (i) the subsequent appeal arose from the same criminal transaction, or (ii) was tried before same jury.

### 7.3. Administrative License Revocation Hearing Authorized By Chapters 524 and 724, Texas Transportation Code

#### 7.3.1. Procedure For The Filing of Cases

7.3.1.1. Each petition appealing the suspension, of a person's driving privilege as provided by Chapter 524, or 724, Texas Transportation Code, shall be filed and docketed into the County Criminal Courts at Law, and County Civil Court at Law of Harris County, Texas as provided by the Local Rules of each court division.

#### 7.3.2. Random Filing; Rules of Assignment and Attraction

7.3.2.1. The district clerk shall assign a petition to the court in which the criminal case resulting from the enforcement contact: (1) is pending; (2) is on appeal; (3) in which a judgment of conviction, or order granting community supervision was entered; or (4) dismissal order was entered, using the criminal case number followed by the suffix "Y".

## RULE 8. DOCKETING OF CASES: JUDGE RECUSAL OR DISQUALIFICATION

8.1. **VOLUNTARY RECUSAL OR DISQUALIFICATION.** Upon voluntarily granting a motion to recuse or disqualify, or on a judge's decision to recuse or disqualify without a motion, the recusing judge shall sign an order referring the case to the Presiding Judge of these courts. If no motion to recuse or disqualify is pending, the recusing judge shall briefly state the reason for the recusal or

disqualification in the referral order. The Presiding Judge of these courts shall issue an order directing the clerk to assign a judge to preside over the case using its computerized random assignment program. The judges, coordinators, and clerks shall then proceed as with any other case transfer.

8.1.1. After a transfer pursuant to Rule 8.1, the clerk shall take the next case that would have otherwise been assigned to the receiving court and instead assign it to the recusing court.

8.2. **INVOLUNTARY RECUSAL OR DISQUALIFICATION.** Immediately after declining to grant a motion to recuse or disqualify, a judge shall sign an order referring the case to the Presiding Judge of the Second Administrative Judicial Region and direct a member of the Office of County Court Management to transmit the referral order to the regional Presiding Judge. The Presiding Judge of the Second Administrative Judicial Region shall assign a judge in the manner provided by Rule 9.2.4, Regional Rules of Administration of the Second Administrative Judicial Region of Texas. The judge assigned to rule on the motion shall sign an order granting or denying the motion using the form of order promulgated by the region. The order shall be filed with the clerk of the court. If the motion is granted, the district clerk shall use the computerized random assignment program to determine the court to which the case will be assigned. The judge assigned to rule on the motion shall sign an order transferring the case to the randomly selected court. The judges, coordinators, and clerks shall then proceed as with any other case transfer.

## RULE 9. BAIL POLICIES

9.1. Pursuant to *ODonnell v. Harris County*, 251 F. Supp. 3d 1052 (S.D. Tex. 2017), and the Fifth Circuit in *ODonnell v. Harris County*, 892 F.3d 147 (5th Cir. 2018), the Harris County Criminal Court at Law Judges ("CCCL Judges") order these policies be applied to all persons arrested for a misdemeanor offense. This rule is designed to vindicate the federal constitutional rights at issue in *ODonnell v. Harris County* arising from the federal Due Process and Equal Protection Clauses. To the extent other provisions of federal or Texas law provide greater protections, nothing in this Rule should be construed to limit those greater protections.[1]

9.2. To the extent Local Rule 9 conflicts with any other local rule, Local Rule 9 controls. Except for situations described in Local Rule 9.4.1-9.4.6, all misdemeanor arrestees will have unsecured bail amounts set initially at no more than $100 and be promptly released[2] on a

[1] For example, Texas law provides greater protections through the Texas Constitution's right to bail clause, Tex. Const. art. 1 § 11, and through statutory protections relating to the timing of post-arrest proceedings, *see, e.g.*, Tex. Code of Crim. Pro. 15.17 (requiring arrestees be taken before a magistrate "without unnecessary delay"); Tex. Gov't Code § 54.858 ("The criminal law hearing officer shall be available, within 24 hours of a defendant's arrest, to determine… all matters pertaining to bail."); Texas Code of Criminal Procedure 17.033(a) ("[A] person who is arrested without a warrant and who is detained in jail must be released on bond, in an amount not to exceed $5,000, not later than the 24th hour after the person's arrest if the person was arrested for a misdemeanor and a magistrate has not determined whether probable cause exists to believe that the person committed the offense. If the person is unable to obtain a surety for the bond or unable to deposit money in the amount of the bond, the person must be released on personal bond.").

[2] The term "release" as used herein refers to release from custody in the pending case for which the new arrest occurred. Thus, if a person has other pending lawful holds (e.g. from another case, parole, or from another jurisdiction), "release" would mean release to that other hold rather than release from custody.

personal bond with or without other non-financial conditions as soon as practicable after arrest. Consistent with Texas law, a judicial officer is not required to sign a personal bond prior to the person's release.

9.3. Secured money bail must not be required as a condition of pretrial release prior to a bail hearing[3] that meets the requirements of Local Rule 9.12, including an individualized determination of ability to pay and, if the person cannot pay, consideration of alternatives and a finding that detention is necessary to meet a compelling government interest in reasonably assuring public safety or reasonably protecting against flight from prosecution.

9.4. All misdemeanor arrestees must be released on a personal bond or on non-financial conditions as soon as practicable after arrest,[4] except those who fall within the following categories, who may be detained for up to 48 hours for an individualized hearing:

9.4.1 Individuals arrested and charged under Penal Code § 25.07;

9.4.2 Individuals arrested and charged under Penal Code § 22.01, against a person described in Penal Code § 22.01(b)(2) , or individuals arrested and charged under Penal Code § 22.07(c)(1) and (§ 22.012) ;

9.4.3 Individuals arrested and charged under Penal Code § 49.04 and who the State gives notice may be subject to Penal Code § 49.09(a) for a conviction that became final within the past five years;

9.4.4 Individuals arrested and charged with any new offense while on any form of pretrial release;

9.4.5 Individuals arrested on a capias issued after a bond forfeiture or bond revocation; and

9.4.6 Individuals arrested while on any form of community supervision for a Class A or B misdemeanor or a felony offense.

[3] "Bail hearing" refers to any legal proceeding that occurs before any judicial officer, including CCCL Judges and Harris County Criminal Law Hearing Officers, at which conditions of release are determined or that might result in pretrial detention or a requirement to pay secured money bail as a condition of release.

[4] If necessary to assure community safety or the safety of the arrestee, a person arrested for violating Penal Code § 49.04(a) (driving while intoxicated) or Alc. Bev. Code § 106.141(c) (driving under the influence as a minor, third offense) may be detained for up to 8 hours after arrest, including past the time they would have otherwise been released, to allow time for the person to become sober and be safely released.

9.5 Any person arrested for the reasons described in Local Rule 9.4.1-9.4.6 may be kept in custody pending an individualized hearing before a judicial officer.[5] Any judicial officer who makes decisions about conditions of release, including the Harris County Criminal Law Hearing Officers, must have complete discretion to release on a personal bond any misdemeanor arrestee prior to an individualized hearing.

9.6 Secured money bail must not be imposed as a condition of release prior to a bail hearing that meets the requirements of Local Rule 9.12.

9.7 Secured money bail must not be used as a condition of pretrial release at any time in the pretrial period for any misdemeanor arrestee other than those persons arrested for the reasons described in Local Rule 9.4.1-9.4.6.

9.8 Any arrestee who is not promptly released on a personal bond after arrest must receive a bail hearing that meets the requirements of Local Rule 9.12 as soon as practicable but no later than 48 hours after arrest. Nothing in this provision is intended to conflict with any provision of Texas law or local rules.

9.9 If a person falls within a carve-out category set forth in Local Rule 9.4.1-9.4.6 and cannot be physically brought to an in-person hearing, a bail hearing must be conducted within 48 hours of arrest in absentia, and an in-person bail hearing must be conducted as soon as practicable thereafter. A judicial officer may travel to the physical location of the arrestee to conduct the bail hearing in-person; a bail hearing conducted using audio-visual equipment will satisfy the requirement for an in-person bail hearing.

9.10 At the bail hearing, the judicial officer may consider the full range of available conditions of release, including secured money bail, unsecured money bail, and nonfinancial conditions. Any judicial officer has complete discretion to release any misdemeanor arrestee on a personal bond.

9.11 Arrestees subject to a bail hearing must be represented by the Harris County Public Defender or other court-appointed counsel. Arrestees may retain a private attorney to represent them at the bail hearing.

[5] Although individuals who fall within Local Rule 9.4.1-9.4.6. *may* be detained for up to 48 hours for a bail hearing, detention is not mandatory. Employees of the District Attorney's Office, Pretrial Services, the Sheriff's Office, or other government agencies may recommend that a judicial officer release any arrestee on a personal bond prior to a bail hearing. The decision to release a person who falls within these categories must be made by a judicial officer. Such recommendations do not infringe judicial officers' authority to make decisions about conditions of release. They simply preserve the possibility of expeditious release on unsecured bond prior to a bail hearing for arrestees who fall within Local Rule 9.4.1-9.4.6. if a judicial officer decides that release prior to a bail hearing is appropriate.

9.12 Before a judicial officer may require secured money bail as a condition of release at a bail hearing, the following procedures must be provided, and the following findings must be made:

9.12.1 Arrestees must be represented by counsel at bail hearings. Indigent arrestees are entitled to representation by the Public Defender's Office or other court-appointed counsel. At bail hearings under Local Rule 4.2, arrestees must be represented by the Harris County Public Defender as described in Local Rule 4.2.2.2.

9.12.2 In every case, notice must be provided to the arrestee that financial information will be collected through an affidavit, and the County must explain to the arrestee the nature and significance of the financial information to be collected. The language required is as follows:

9.12.3 **I am [First Name] from Harris County Pretrial Services. I am here to interview you and report your answers to the Court. What you tell me may be used to make decisions about your release from jail and whether a lawyer will be appointed in your defense. Also, you will need to state the amount of money that you can afford to pay at the time of the hearing that will be held after we talk. This is the amount of money you could pay without suffering any hardship in your ability to meet your basic needs, like food, clothing, shelter, phone, medical care, and transportation for you and any dependents. If you cannot afford to pay any money without hardship, please let me know. I will then also ask you to sign a paper with the financial information that you provided. Your answers must be truthful under penalty of law. False answers may be used against you. The information will be shared with the Court, the District Attorney and possibly other agencies. You may refuse to complete the interview, or you may refuse to provide me with the financial information. You will be allowed to talk to an attorney before your bail hearing. You may speak to the attorney before you decide whether to participate in this interview. Do you agree to go forward with the interview and to provide financial information?** The judicial officer must provide adequate notice to every arrestee appearing for a hearing concerning pretrial release and detention of the rights at stake in the hearing and the procedural protections and substantive findings required when determining conditions of pretrial release or detention. The judicial officer may satisfy this requirement by providing a general oral notice to a group of arrested individuals. The judicial officer must provide notice that includes the following in all material respects:

- The purpose of this hearing is to determine the least-restrictive pretrial conditions necessary to serve the government's interest in reasonably assuring public safety and reasonably protecting against flight from prosecution.

- Your federal constitutional rights to pretrial liberty and against wealth-based detention are at issue in this hearing because I will be considering conditions of release and whether pretrial detention is necessary.

- I am required to consider whether alternatives to pretrial detention could serve the government's interests in reasonably assuring public safety and reasonably protecting against flight from prosecution. I cannot order you detained before trial—and I cannot require you to pay an amount of money bail that you cannot afford—if there are any conditions of release that would be adequate to reasonably assure public safety and reasonably protect against flight from prosecution.

- Your lawyer will be able to present or proffer evidence and to argue on your behalf at this hearing about any factors relevant to release, detention, and the availability of alternative conditions.

- Before requiring secured money bail as a condition of release, I will review the financial information that was collected through an affidavit so that I can determine whether you can afford to pay money bail and if so how much. Before I am permitted to require money bail, I must make a finding on the record as to whether you can afford to pay that amount today.

- You will have an opportunity to challenge the government's arguments and evidence relating to the bail decision. You will also have an opportunity during this hearing to make legal arguments and to present or proffer evidence about any factors relevant to release, detention, and the availability of alternative conditions. This is not an opportunity to try your case—the issue before the court is determining appropriate conditions of pretrial release or whether you must be detained as a last resort pending your trial.

- If I require conditions of release or pretrial detention, I will explain my decision on the record.

- I cannot order that you be detained or require you to pay an unaffordable amount of money bail as a condition of release unless I make a finding by clear and convincing evidence that no other condition or combination of conditions is adequate to reasonably assure public safety or to reasonably protect against flight from prosecution. I must identify and explain the reasons for my decision and the evidence and information I relied on in making that decision on the record, so that you can challenge the decision at a later date. Requiring unaffordable money bail or ordering you detained must be the last resort, and I will order detention after this hearing only if I make a finding that there are no alternatives for reasonably assuring the safety of the community and reasonably protecting against your flight from prosecution.

- After the hearing today, you will have an opportunity to have the bail decision, including any conditions of release, reviewed by another judge within one business day if you remain detained after today's hearing. If you are released, you will also be entitled to a hearing before another judge if you want to challenge conditions of release.

9.12.4 In every case in which a judicial officer is contemplating secured money bail as a condition of release, the arrestee must be asked, under penalty of perjury, the amount of money she can afford to pay from any lawful source at the time of the hearing.

9.12.5 The arrestee must be given an opportunity to be heard concerning any factors relevant to release, detention, and the availability of alternative conditions. Additionally, the arrestee must have an opportunity at the hearing to present evidence and make argument concerning those issues, and to contest any evidence or argument offered by the government concerning those issues. The arrestee must have access to all of the evidence and information considered at the bail hearing, including any criminal history from the National Crime Information Center ("NCIC") and Texas Crime Information Center ("TCIC").

9.12.6 If the judicial officer requires money bail as a condition of release, the money bail order must be accompanied by substantive findings on the record that are reviewable by a higher court. The findings must be that, by clear and convincing evidence: (1) the arrestee has the ability at the time of the hearing to pay the amount required, or (2) that the arrestee does not have the ability to pay the amount required, but alternative conditions of release were considered, no less-restrictive condition or combination of conditions could reasonably assure the safety of the community or reasonably protect against flight from prosecution, and imposition of unaffordable money bail is necessary to reasonably assure the safety of the community or to reasonably protect against flight from prosecution. These findings and procedures must be provided if the court imposes an order of pretrial detention, either through an unattainable financial condition or directly through an order of pretrial detention.

9.12.7 An arrestee who meets any of the following, may not be assessed any fee associated with a personal bond or an unsecured bond, or the cost of a non-financial condition of release, including but not limited to, a supervision fee, a fee for electronic monitoring, or the cost of an interlock device:

a. Is eligible for appointment of counsel;

b. Has been homeless in the past six months;

c. Has income at or below 200% of the federal poverty guidelines; Is a full-time student;

d. Is, or within the past six months has been, homeless;

e. Is incarcerated, or residing in a mental health or other treatment program; or

f. Is or has dependents who are eligible to receive food stamps, Medicaid, Temporary Assistance for Needy Families, Supplemental Security Income, Social Security Disability Income, public housing, or any other federal or state public assistance program based on financial hardship.

9.12.8 No arrestee may be incarcerated due to inability to pay a fee or cost associated with a condition of release.

9.13 At any bail hearing in the assigned County Criminal Court at Law, the arrestee shall be provided with the same substantive and procedural protections as described in Local Rule 9.12. Specifically, the court is required to afford the arrestee counsel under Local Rule 9.12.1 and to make findings under Local Rule 9.12.6 if the court imposes or continues an order of detention or money bail set at an unaffordable amount. Any arrestee who remains in jail after a Local Rule 4.2 hearing that meets the requirements of Local Rule 9.12 must be provided with a bail hearing the next business day before a CCCL Judge under Local Rule 4.3. The bail hearing before a CCCL Judge must occur before a plea can be accepted by the court. If a person is subject to a hold or has a concurrently pending felony case, the person may waive the bail hearing before a CCCL Judge without being brought into the courtroom. For every other arrestee, waiver of the bail hearing before a CCCL Judge may not be accepted unless the person is present in court, appears before the CCCL Judge, is informed by the judge of her rights as set forth in Local Rule 9.12.3, and makes a knowing, intelligent, and voluntary waiver of the bail hearing before the CCCL Judge on the record.

9.14 Upon an arrestee's request at any subsequent time prior to trial, the CCCL Judge shall provide a prompt bail hearing on the record to review conditions of bail. Prior to the bail hearing, the CCCL Judge must approve and assure timely access to supportive defense services such as investigators, experts, or social workers and to discovery of any information that may be considered by the CCCL Judge at the hearing. If the CCCL Judge imposes or continues conditions of release after the hearing, the CCCL Judge must provide written factual and legal findings that the conditions imposed are the least restrictive necessary to reasonably assure public safety or to reasonably protect against flight from prosecution.

9.15 The Sheriff must not enforce any order requiring secured money bail that was imposed prior to an individualized hearing. All arrestees shall be treated in accordance with Local Rule 9.2 and released on a personal bond, or Local Rule 9.12, and afforded an individualized hearing.

9.16 The Sheriff must not enforce any order requiring secured money bail that is not accompanied by a record showing that the procedures and findings described in Local Rule 9 were provided. By General Order of the CCCL Judges, if an order to pay secured money bail is unaccompanied

by the required record, the Sheriff must deliver to the arrestee a General Order Bond ("GOB") issued by one or more of the CCCL Judges and release the arrestee.[6]

9.17 Any directive or requirement to pay money bail must not be enforced if issued prior to the bail hearing.

9.18 If an arrestee is in the Sheriff's custody 40 hours after arrest and no conditions of release have been determined, the Sheriff must present the arrestee to a judicial officer for a bail hearing. If the person does not appear before a judicial officer within 48 hours of arrest, by general order of the judges, the Sheriff must deliver to the arrestee a "General Order Bond" issued by one or more of the CCCL Judges and release the arrestee.

9.19 The District Clerk's Office will electronically provide to the Sheriff's Office, on an hourly basis, a list of all misdemeanor arrestees who have been in custody 40 hours or more from the recorded arrest date and time, and have not received a bail hearing or a General Order Bond.

## RULE 10. REFUND OF CASH BONDS

**10.1.** Unless a notice of appeal is given, cash bond deposits will be refunded to depositors other than the defendant upon final disposition of the criminal proceeding. If a notice of appeal is given, refunds will not be given until a replacement bond has been duly filed with the district clerk.

**10.2.** In the event the criminal proceeding is reversed and remanded to the trial court, no refund or assignment will be granted until a replacement bond has been duly filed with the district clerk.

## RULE 11. BOND FORFEITURE REINSTATEMENTS, DISMISSALS, AND JUDGMENTS

**11.1.** All bond reinstatement orders, bond forfeiture dismissal orders, and agreed judgments, wherein payments of costs of judgments are involved, shall be presented in person by the bonding agency only to the judge of the court wherein the forfeiture occurred

**11.2.** The total amount of the costs 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.

**11.3.** Money orders, cashier's checks, and firm checks, payable to the Harris County district clerk, are the only tender that will be accepted. Cash payments may be made in advance and a receipt obtained from the district clerk and presented with the order or judgment.

**11.4.** All bonding agencies shall be required to obtain the future setting date from the court coordinator prior to presenting orders of reinstatement and costs. All future settings shall be seven days from the date of the reinstatement order.

[6] The General Order Bond is a judicial release order, requiring the Sheriff, pursuant to judicial order, to release the arrestee from Harris County custody. The bond is pre-approved by the Judges or the Presiding Judge.

**11.5.** 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 clerk of his court for delivery to the district clerk's office.

## RULE 12. APPROVAL OF PERSONAL BONDS

**12.1.** Whether to approve or deny a personal bond after an individualized hearing is up to the reviewing magistrate's sound discretion. Secured money bail must not be required as a condition of pretrial release prior to a bail hearing that meets the requirements of Local Rule 9.12, including an individualized determination of ability to pay and, if the person cannot pay, consideration of alternatives and a finding that detention is necessary to meet a compelling government interest in reasonably assuring public safety or reasonably protecting against flight from prosecution.

**12.2.** Certain arrestees are presumed appropriate for release on personal bond following their initial arrest, subject to the magistrate's sound discretion and any appropriate conditions. Whether a presumption for release on personal bond exists is governed by the bail policies pursuant to Rule 9.

## RULE 13. SIGNING OF PLEADINGS

**13.1.** Every pleading, brief, or 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 14. PREPARATION OF JUDGMENTS

**14.1.** The district clerk of Harris County, Texas, shall prepare the judgment in the case at the time the judgment is rendered using a form approved by the Judges of these Courts, and present it without delay to the trial judge for approval and signature. Judgments in a multi-count indictment or information shall be prepared by the prosecuting attorney at the time the judgment is rendered and the prosecuting attorney shall present it without delay to the trial judge for approval and signature.

## RULE 15. PETITION FOR OCCUPATIONAL DRIVER'S LICENSE

**15.1.** The District Clerk shall only accept for filing, a petition seeking an occupational license resulting from a suspension, revocation, cancellation, or denial of a person's driving privilege expressly covered by these rules. The District Clerk shall direct a person wishing to file a petition seeking an occupational license resulting from a suspension, revocation, denial, or cancellation under a provision not covered in subsection A, below, to the County Clerk of this county.

### 15.2. Filing of Petition for Occupational License

15.2.1. A person may apply for an occupational license by filing a verified petition with the District Clerk of Harris County, Texas if the person's license:

15.2.1.1. was automatically suspended, revoked, cancelled or denied upon conviction of an offense in a county criminal court at law as provided by Chapter 521, Transportation Code; or;

15.2.1.2. was suspended or denied as provided by Chapter 524, or 724, Transportation Code; or

**15.3. Assignment of Occupational License Petition**

**15.3.1.** Suspension after conviction. The clerk shall assign the case to the court in which the defendant's driver's license was most recently suspended upon conviction or order granting community supervision as provided by Chapter 521 Transportation Code using the cause number from the case followed by the suffix "R".

**15.3.2.** Suspension or denial after failing or refusing to provide a sample of breath or blood. The clerk shall assign the petition to the court in which the criminal case resulting from the failure or refusal is pending, or in which an order dismissing the case was entered, using the cause number of the case followed by the suffix "X".

**15.4. Setting**

**15.4.1.** The district clerk shall set the petition on the court's docket seven days from the date it is filed, or on a date set by order of the Judge of the court with jurisdiction.

## RULE 16. ATTORNEY OF RECORD

**16.1.** On the first appearance retained counsel shall complete the Attorney of Record form provided by the court and file it with the clerk of the court. The district clerk shall use the attorney of record form or the order appointing counsel as a source document for data entry into the Justice Information Management System. A written motion and order of the court will be required for withdrawal as attorney of record.

**16.2.** The original attorney of record is presumed, under these rules, to continue as attorney when a notice of appeal is filed. When the original attorney of record does not continue to represent the defendant on appeal, then the original attorney of record shall file a motion to withdraw as attorney of record in the county criminal court in which the case is pending. At the time the motion to withdraw is filed, the original attorney of record shall also request a hearing date from the court coordinator who shall set the motion on the court's docket within seven (7) calendar days of presentment. The purpose of this hearing is to allow the court to rule on the motion to withdraw.

**16.3.** When notice of appeal is filed and an attorney other than the attorney of record is retained to prosecute the appeal, then appellate counsel shall file a motion to substitute counsel in the county criminal court at law in which judgment was entered. The motion shall be filed at the time notice of appeal is filed, or not later than five (5) calendar days after the date counsel is retained or appointed. The appellate counsel shall also request a hearing date from the court coordinator who shall set the motion to substitute counsel on the court's docket within seven (7) calendar days of presentment. The purpose of this hearing is to allow the court to rule on the motion to substitute counsel.

**16.4.** The written notice of appearance of counsel on appeal will be filed with the clerk for the case file and will become a part of the clerk's transcript on appeal**.**

**16.5.** When an attorney is appointed to represent an indigent defendant, the order appointing counsel shall be the document used to attach the attorney's name to the case as an appointed attorney.

## RULE 17. JUVENILE DEFENDANTS

**17.1.** Any defendant who is charged with a misdemeanor offense within the jurisdiction of the county criminal courts at law of Harris County will be presumed to be an adult until a proper judicial determination is made to the contrary.

**17.2.** In any case wherein proof is offered 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 suspected to be a juvenile.

**17.3.** The court will set the case as soon as possible for a hearing as provided by TEX. CODE CRIM. P. ANN. art. 4.18, to determine if the defendant is a juvenile. Only after that determination will the defendant be released from custody, and the cause transferred to the juvenile court in accordance with TEX. CODE CRIM. P. ANN. art. 4.18, and Section 56.08, Family Code.

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

**17.5.** The defendant may be released from custody if evidence is provided to the sheriff or other holding agency that the defendant is a juvenile. The evidence affecting the defendant's release shall be presented to the court on the next court workday so 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 18. COUNTY CRIMINAL COURT MANAGEMENT PROGRAM

**18.1.** The presiding judge is chief executive officer, and is assisted by the co-presiding judge. The court manager assists the presiding and co-presiding judges and provides management, systems, and legal assistance to all courts, as well as training to the coordinators.

### 18.2. Court Manager and Coordinator System for Certain Harris County Courts

**18.2.1.** The courts in Harris County that have the same criminal jurisdiction may establish and maintain a court manager and coordinator system.

**18.2.2.** The judges of the courts to which this section applies may appoint a court manager, one or more court coordinators, and other staff as appropriate to the needs of the local jurisdiction. The judges shall by rule designate the qualifications and duties of the court manager and the coordinators to improve criminal justice and expedite the processing of the criminal cases through the county courts. The court manager and the coordinators shall cooperate with state agencies having duties relating to the operation of the courts to promote uniform and efficient justice**.**

**18.2.3.** The court manager and the coordinators serve at the pleasure of the judges.

**18.2.4.** The court manager and coordinators are entitled to reasonable compensation as set by the judges of the courts served. The court manager's compensation may not exceed sixty (60) percent of the salary paid the judges, unless the commissioners' court by order sets the

court manager's compensation at a greater amount. The amount paid the coordinators may not exceed fifty (50) percent of the salary paid the judges**.**

**18.2.5.** On the judges' orders, the commissioners' court shall fund the court manager and coordinator system from fines collected by the courts served by the court manager and coordinators. If the fines collected are insufficient to provide the total funding for the program, the county shall provide the additional funds needed.

**18.2.6.** This section does not diminish the statutory duties and powers of the sheriff, district attorney, clerk of the court, or any court officer.

### 18.3. Court Coordinators Training/Salary Plan

**18.3.1.** The Harris County Court Coordinators' Career Ladder Salary Plan was created by a joint order of the Judges of the District Courts Trying Criminal cases and the County Criminal Courts at Law of Harris County, Texas. The plan became effective September 1, 1994.

18.3.1.1. Effective September 1, 1994, all court coordinators employed by a district court or a county court at law shall be placed in Step 7.0 of the plan and shall be exempt from the bachelor's degree requirement for Step 8.0 through Step 12.0. Court coordinators employed on or after September 1, 1994 must meet the annual requirement to attend sixteen (16) hours of continuing education to be eligible for step increases for Step 8.0 through Step 12.0. All persons employed after September 1, 1994 as a court coordinator in a district or county court at law will be paid in accordance with eligibility requirements for plan steps and incentive pay. As amended November 19, 2002, the steps are reduced from 12 to eight.

18.3.1.2. The anniversary date of the plan will be September 1st of each year.

18.3.1.3. The Administrative Office of the District Courts and the Office of County Court Management for the county criminal courts at law will certify to the Harris County Budget Office on August 1st of each year the step level and incentive pay eligibility of each court coordinator.

18.3.1.4. Continuing education is defined as enrollment in, and completion of, sixteen (16) hours of continuing education in courses offered by the Administrative Office of the District Courts and/or the Office of County Court Management, or through attendance at programs offered by the Texas Center for the Judiciary, the Texas Association for Court Administration, the Justice Management Institute, the National Center for State Courts, the Institute for Court Management, the National Association for Court Management, the National Judicial College, the Criminal Justice Center at Sam Houston State University, or other approved programs. Continuing education hours are required in addition to any other educational requirement of this plan.

18.3.1.5. In addition to the basic salary provided in Step 1.0 through 12.0, incentive pay will be awarded to those persons meeting the minimum eligibility requirements. Similar to other benefits, such as longevity pay, incentive pay follows the "person," not the "position," and incentive pay is not considered when cost of living increases are calculated.

18.3.1.6. For completion of at least sixty (60) hours of college credit, or for attainment of an associate's degree, a person will be eligible for a step classification of 0.1 and incentive pay of $75.00 per month. To be eligible for plan credit, at least half of the credit hours must be from the following subject areas: English, math, computer science, accounting, management or public administration, human resource or personnel management, psychology, sociology, criminal justice, law, government or political science, or a foreign language. All hours must be granted from an institution recognized by the Texas Higher Education Coordinating Board, or must be transferable to one of its recognized institutions. A person who has graduated from the Executive Development Program of the Institute for Court Management of the National Center for State Courts meets the minimum requirement for this incentive pay step.

18.3.1.7. A person who is multilingual and has been certified, through written and oral examination, to interpret in the courts is eligible for incentive pay step 0.1.

18.3.1.8. For attainment of a bachelor's degree, a person will be eligible for a step classification of 0.2 and incentive pay of $150.00 per month. The major area of study or at least half of the earned credit hours must be from one of the following subject areas: English, math, computer science, accounting, management or public administration, human resource or personnel management, psychology, sociology, criminal justice, law, government or political science, or a foreign language. All hours must be granted from an institution recognized by the Texas Higher Education Coordinating Board or be transferable to one of its recognized institutions.

18.3.1.9. For attainment of a master's degree, a person will be eligible for a step classification of 0.3 and incentive pay of $225.00 per month. The major area of study or at least half of the earned credit hours must be from one of the following subject areas: English, math, computer science, accounting, management or public administration, human resource or personnel management, psychology, sociology, criminal justice, law, government or political science, or a foreign language. All hours must be granted from an institution recognized by the Texas Higher Education Coordinating Board or be transferable to one of its recognized institutions.

## 18.4. Staff

### 18.4.1. Court Manager

18.4.1.1. The County Criminal Court Manager is chosen by a majority of the county criminal court at law judges and hired by the presiding judge. Although the court manager serves at the pleasure of the courts, the court manager's primary responsibility is to the presiding judge of the county criminal courts at law.

### 18.4.2. Staff Attorney

18.4.2.1. The staff attorney for the county criminal courts at law is appointed by the presiding judge and hired by the court manager.

# RULE 19. CODE OF JUDICIAL CONDUCT

**19.1.** All persons employed by the county criminal courts at law in any capacity shall, within the first thirty days of employment, be apprised of the contents of the Code of Judicial Conduct by the court manager, or by the staff attorney at the direction of the court manager, as the Code applies to the affected employee. The employee shall have an opportunity to ask appropriate questions related to the intent and meaning of the Code. When the meaning and intent of the Code of Judicial Conduct is understood by the employee, the acknowledgment on the following page shall be executed and signed with at least one witness present. The completed acknowledgment shall be filed in the employee's personnel file folder, and a copy shall be retained by the employee (see form at Policies and Procedures, Appendix, Page A-8).

## RULE 20. COURT REPORTERS

**20.1.** Absent and substitute court reporters.

**20.1.1.** A court reporter in a county criminal court at law will be allowed only that vacation and sick leave time as approved by the commissioners' court for Harris County employees. In the event of a court reporter's absence that is not covered by approved vacation or sick leave time, that court reporter will be responsible for paying the costs to provide the court with a substitute reporter.

**20.1.2.** During the approved absence of a court reporter, the Office of County Court Management shall be contacted to determine whether a reporter from another county criminal court at law is available before a substitute is hired, unless the court's reporter has made prior arrangements for coverage with another court reporter.

## RULE 21. SATISFACTION OF JUDGMENT: ORDER PERMITTING PARTIAL PAYMENT ON FINES AND COSTS

**21.1.** The Sheriff of Harris County, Texas is directed to accept either the full amount or a partial amount of any fine, court costs or fees lawfully adjudged against a defendant. The sheriff or his designated deputy shall notify the judge of the court with jurisdiction over the defendant within 72 hours that partial funds were remitted, and shall include the (1) case number; (2) name of the defendant; (3) amount remitted; (4) date remitted; and (5) amount outstanding, as reflected in the records of the sheriff.

## RULE 22. RELEASE OF CLERK'S RECORD TO COUNSEL

**22.1.** The attorney representing a defendant appealing a judgment of a county criminal court at law shall be permitted the use of a copy of the Clerk's Record. Before releasing a copy of the Clerk's Record, the District Clerk of Harris County or a deputy clerk shall determine from the records in his possession the identity of the attorney of record on appeal. The District Clerk or a deputy clerk shall only release a copy of the Clerk's Record to the attorney representing the defendant on appeal. If the identity of the attorney of record on appeal cannot be ascertained or is in dispute, the clerk shall refer the attorney to the judge of the court in which judgment was entered and shall not release a copy of the Clerk's Record without a written order from a judge of a county criminal court at law.

**22.2.** The District Clerk shall develop procedures to ensure that copies of the Clerk's Record are released and returned in a timely manner and their location always known.

## RULE 23. ALTERNATIVE PLAN FOR THE APPOINTMENT OF COUNSEL TO INDIGENT DEFENDANTS UNDER THE FAIR DEFENSE ACT

### 23.1 DEFINITIONS

**23.1.1** *Alternative Plan* means the Alternative Plan adopted by the Judges of the County Criminal Courts at Law of Harris County, Texas, on October 27, 2021.

**23.1.2** *Appointing authority* means the Harris County Office of Managed Assigned Counsel.

**23.1.3** *Approved attorney* means an attorney meeting the objective qualifications of this Plan, and approved by the Harris County Office of Managed Assigned Counsel.

**23.1.4** *Appointment manager* means the person who implements appointment procedures.

**23.1.5** *A day* means a single day on which an attorney is assigned to appear in a court.

**23.1.6** *Case* means each cause number, or count in which a defendant is charged with a separate offense. *See* Office of Court Administration, Texas Judicial Counsel Monthly Report Instructions.

**23.1.7** *Contract* means the agreement between an approved attorney and the Harris County Commissioners Court meeting the requirements established by the Texas Indigent Defense Commission.

**23.1.8** *Contract Defender Program*. Contract defender program means a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.

**23.1.9** *Contracting Authority*. The contracting authority is the Commissioners Court of Harris County, Texas.

**23.1.10** *Contractor*. The contractor is an individual attorney licensed to practice law in the State of Texas, meeting the eligibility criteria in this Alternative Plan that can be bound by contract.

**23.1.11** *Criminal Law Hearing Officer* means a judicial officer created by Chapter 54, Subchapter L of the Texas Government Code (§ 54.851 et seq.)

**23.1.12** *Designating Authority* means the Judge of the Court, or if designated by this Indigent Defense Plan, the Judges' Designee under Article 15.17 of the Code of Criminal Procedure or under Article 26.04(g) of the Code of Criminal Procedure. The Designating Authority decides whether a person is entitled to the appointment of counsel, and if so, whether the Public Defender's Office will represent the person or whether the MAC Office will appoint counsel to represent the person.

**23.1.13** *Defendant* means a person accused of a crime or juvenile offense, as those terms are defined by Section 71.001 of the Texas Government Code.

**23.1.14** *Disposed* means:

23.1.14.1 entry of an order dismissing the case;

23.1.14.2 the defendant has been sentenced after a plea of guilty or no contest;

23.1.14.3 trial on the merits resulting in a verdict;

23.1.14.4 entry of an order granting community supervision;

23.1.14.5 a motion for new trial has been overruled;

23.1.14.6 submission of a brief on appeal;

23.1.14.7 granting or denial of an application for writ of habeas corpus or other extraordinary relief.

**23.1.15** *Fair Defense Act Management System* (FDAMS

**23.1.16** *First-chair counsel* means the attorney in charge of the case.

**23.1.17** *He* or *him* refers to a male or female.

**23.1.18** *Household* means all individuals who are actually dependent on the defendant for financial support.

**23.1.19** *Indigent* means a person who is not financially able to employ counsel. A person is presumed indigent if the total income derived by that person (and any of his dependents) is equal to or less than 125% of the United States Health and Human Services poverty guidelines applicable to that defendant's family/household.

**23.1.20** *Itemized Fee Voucher*. The itemized fee voucher shall be in electronic form promulgated by a majority of judges and approved by the Harris County Auditor. It shall include at a minimum all the information necessary for the county auditor or other designated official to complete the expenditure report required to be submitted to the Office of Court Administration by Section 71.0351 (e), Government Code.

**23.1.21** *Judge* means a Judge of a Harris County Criminal Court at Law.

**23.1.22** *Judicial Officer* means a Judge of a Harris County Criminal Court at Law, or a Harris County Criminal Law Hearing Officer.

**23.1.23** *MAC Office* means the Harris County Office of Managed Assigned Counsel.

**23.1.24** *Majority of judges* means not less than nine of the duly elected and qualified judges of the Harris County Criminal Courts at Law.

**23.1.25** *Plan of Operation* means the Plan of Operation adopted by the Harris County Office of Managed Assigned Counsel, described in Article 26.047(c), Code of Criminal Procedure, and approved by a majority of judges.

**23.1.26** *Probable cause* means a reasonable ground, based upon the facts and circumstances, sufficient to warrant a prudent man to believe that the defendant has committed each element of the offense charged and the defendant is culpable, it being understood that if there is a sufficient defense established by testimony or documentation of the arresting agency, then there is no "probable cause".[7]

**23.1.27** *Public Defender* means the Chief Public Defender of the Harris County Public

[7] *Roberson v. Richardson*, Civil Action No. H084-3659, United States District Court For The Southern District of Texas, Houston Division (1987).

Defender's Office.

**23.1.28** *Second-chair counsel* means an attorney who is appointed or attached to a case, but is not lead counsel in the case.

**23.1.29** *Taken before a magistrate* means either physically bringing the defendant before the judicial officer in person or the image of the arrested person may be presented to the magistrate by means of an electronic broadcast system.as provided by TEX CODE CRIM. PROC. ART. 15.17(a).

**23.1.30** *Working day* means Monday through Friday, except official federal, state, and county holidays.

## 23.2 PROMPT AND ACCURATE MAGISTRATION PROCEEDINGS

**23.2.1** DUTY OF ARRESTING OFFICER. The arresting officer, or the person having custody of the arrestee, shall ensure that every arrestee shall be brought before a judicial officer without unnecessary delay, but not later than 48 hours after the person is arrested.

23.2.1.1 Unless arrested pursuant to an arrest warrant, bench warrant, capias, or other order of a magistrate or judge, necessary forms establishing probable cause shall be completed and filed contemporaneous with the arrestee being booked into the Harris County Jail for any misdemeanor punishable by incarceration.

**23.2.2** RELEASE OF CERTAIN DEFENDANTS ARRESTED WITHOUT WARRANT. A person arrested for a misdemeanor without a warrant and who is detained in jail must be released not later than the 24$^{th}$ hour after arrest, on a bond in an amount not to exceed $5,000, if a judicial officer has not determined that probable cause exists to believe that the person committed the offense for which the person is charged. If the person is unable to obtain a surety for the bond or unable to deposit money in an amount of the bond, the person must be released on personal bond.

**23.2.3** POSTPONED RELEASE. If requested by the State of Texas, a judicial officer may postpone the release of the defendant for not more than 72 hours after the defendant's arrest if a probable cause determination has not been made, in compliance with the procedure set forth in ART. 17.033, TEX CODE CRIM. PROC. ARTS.

**23.2.4** RECORD OF PROCEEDING. In each case in which a person arrested is taken before a judicial officer, any combination of an electronic recording, written form, or other documentation memorializing:

23.2.4.1 the judicial officer informing the defendant of the defendant's right to request appointment of counsel;

23.2.4.2 the judicial officer asking the person whether the person wants to request the appointment of counsel;

23.2.4.3 instruction on how to request the appointment of counsel

and 23.2.4.4whether the person requested the appointment of

counsel.

**23.2.5** DEFENDANT BROUGHT BEFORE JUDICIAL OFFICER. The judicial officer shall determine if the defendant can speak and understand the English language, or if the defendant is deaf or hearing impaired.

**23.2.6** INTERPRETER. If the person does not speak and understand the English language or is deaf, the judicial officer shall in an appropriate manner, and consistent with ARTS. 38.30, and 38.31, TEX. CODE CRIM. PROC. ARTS., communicate with the defendant using an interpreter.

23.2.6.1 TRANSLATE FORMS AND DOCUMENTS. Interpreters provided at County expense shall provide sight translation of court documents and correspondence associated with the case or proceeding.[8]

**23.2.7** THE HEARING. The judicial officer shall inform the defendant of the nature of the charge and of any affidavit, if available, filed therewith:

23.2.7.1 The officer shall admonish the defendant of:

23.2.7.1.1 the right to retain counsel;

23.2.7.1.2 the right to remain silent;

23.2.7.1.3 the right to have an attorney present during any interview with peace officers or attorneys representing the State of Texas;

23.2.7.1.4 the right to terminate an interview at any time;

23.2.7.1.5 the right not to make a statement and that any statement made by the defendant may be used against the defendant.

**23.2.8** INFORMATION AND EXPLANATION OF THE RIGHT TO COUNSEL.

23.2.8.1 The judicial officer shall:

23.2.8.1.1 Inform the defendant of the right to appointed counsel if the person cannot afford counsel and the procedures for requesting appointment of counsel in the trial court;

23.2.8.1.2 Inquire as to whether the defendant is requesting that counsel be appointed;

23.2.8.1.3 Clearly note on the magistrate's admonishment form, or Probable Cause for Further Detention form, the defendant's choice viz: to request the appointment of counsel or not to request the appointment of counsel.

[8] Rule 5.2, Harris County Limited English Proficiency (LEP) Plan for Court Proceedings required by 42 U.S.C. 2000d, et seq (2015).

23.2.8.2 If the judicial officer has reason to believe the defendant is not mentally competent, the judicial officer shall enter a request for counsel on behalf of the defendant to alert the judge of the court in which the case is pending that counsel with the specialized skills necessary to represent mentally ill, or intellectually disabled should be appointed to the case.

**23.2.9** DETERMINATION OF PROBABLE CAUSE FOR FURTHER DETENTION. In a case where the individual was arrested without an arrest warrant, bench warrant, or capias, or other order of a magistrate or judge, the judicial officer shall determine whether there is probable cause to believe the person committed the offense stated in the complaint.

**23.2.10** SETTING BAIL. The judicial officer shall set the amount of bail and consider the defendant for release on a personal bond.[9]

**23.2.11** ARREST ON OUT-OF-COUNTY WARRANT. The judicial officer and district clerk shall follow the same procedure for a person arrested on one or more out-of-county warrants.

23.2.11.1 If the arrestee requests the appointment of counsel, the judicial officer shall ask the arrestee to complete an affidavit of indigence and financial statement, and shall ensure the arrestee has assistance in completing the forms.

23.2.11.2 The district clerk shall transmit the form to the county issuing the warrant within 24 hours of the request being made.

**23.2.12** THE MAGISTRATE SHALL RECORD THE FOLLOWING:

23.2.12.1 The date and time the defendant was arrested and the date and time when the defendant was brought before the magistrate;

23.2.12.2 Whether the judicial officer informed the defendant of the right to request appointment of counsel, and the procedure for requesting counsel in the trial court; and

23.2.12.3 Whether the defendant requested appointment of counsel.

**23.2.13** TIMELY TRANSMISSION OF FORMS TO THE TRIAL COURT. The District Clerk of Harris County, Texas, through a deputy district clerk, shall immediately transmit or cause to be transmitted the magistrate's form or Probable Cause for Further Detention form to the judge of the court in which the case is pending for use the following business day to timely conduct an indigence hearing as requested by the defendant.

## 23.3 RIGHT TO APPOINTED COUNSEL.

**23.3.1** A defendant found to be indigent as that term is used herein, and who requests appointed counsel has the right to counsel:

23.3.1.1 in any adversarial judicial proceeding that may result in punishment by confinement;

[9] *Roberson v. Richardson*, supra.

23.3.1.2 in any criminal proceeding before the court if the judge concludes that the interests of justice require representation;

23.3.1.3 in a direct appeal to a court of appeals;

23.3.1.4 following arrest for violating a condition of community supervision; and

23.3.1.5 following arrest on an out-of-county warrant.

**23.3.2** In cases where a person appearing before the Court is not otherwise entitled to appointment of counsel, judge of the court may also request that the public defender's office represent the person or that the MAC Office appoint counsel to represent the person in the interests of justice, regardless of the person's financial status.

## 23.4 DETERMINING INDIGENCE

**23.4.1** Procedures Used to Determine Indigence.

23.4.1.1 Indigence is determined by the judge of the court with dispositive jurisdiction. The judge may require the defendant to respond to questions about the defendant's financial status, produce documentation supporting financial information provided, and/or order a court official to verify financial information provided.

23.4.1.2 A request by the appointing authority for additional information, documentation, and/or verification cannot delay appointment of counsel beyond the timelines specified in ART.1.051. TEX. CODE CRIM. PROC.

**23.4.2** FINANCIAL STANDARD. For purposes of appointing counsel, a person is indigent if the person is not financially able to employ counsel.[10] The standard shall apply to each defendant equally, regardless of whether the defendant is in custody or is released on bail.

**23.4.3** FACTORS FOR DETERMINING INDIGENCE. A judge shall consider the following factors in determining whether a defendant is indigent:

23.4.3.1 defendant's income,

23.4.3.2 source(s) of income,

23.4.3.3 assets and property owned, or in which the defendant has an interest,

23.4.3.4 outstanding obligations,

23.4.3.5 necessary expenses,

23.4.3.6 the number and ages of dependents, and

23.4.3.7 Spousal income that is available to the defendant.

**23.4.4** PRESUMPTIONS.

[10] *See* TEX. CODE CRIM. P. ANN. art. 1.051(b).

23.4.4.1 The defendant is presumed to be indigent if his net household income does not exceed 125% of the Poverty Guidelines as revised annually by the United States Department of Health and Human Services and published in the Federal Register.

23.4.4.2 A defendant determined to be indigent is presumed to remain indigent for the remainder of the case unless a material change in the defendant's financial circumstances occurs.

**23.4.5** USE OF INFORMATION LIMITED. Information gathered for determining indigence, both in the affidavit of indigence and through oral examination, may not be used for any purpose other than:

23.4.5.1 Determining if defendant is (or is not) indigent; or

23.4.5.2 Impeaching direct testimony of defendant regarding the defendant's indigence.

**23.4.6** REVIEW. A defendant's status as indigent or not indigent may be reviewed in a formal hearing at any stage of court proceedings, on a motion for reconsideration by the defendant, the defendant's attorney, or the attorney representing the state.

23.4.6.1 The defendant's indigent status will be presumed not to have changed. The presumption can be rebutted in the review proceedings based on the following:

23.4.6.2 Evidence of a material change in the defendant's financial circumstances, as a result of which the defendant does not meet any of the standards for indigence contained in these rules; or

23.4.6.3 Additional information regarding the defendant's financial circumstances that shows that the defendant does not meet any of the standards for indigence contained in these rules.

23.4.6.4 If a defendant previously determined to be indigent is subsequently determined not to be indigent, the attorney shall be compensated by the county according to the fee schedule for hours reasonably expended on the case.

23.4.6.5 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 and costs, the court shall order the defendant to pay during the pendency of the charges or, if convicted, as court costs, the amount that it finds the defendant is able to pay.

## 23.5 ESTABLISHING MINIMUM ATTORNEY QUALIFICATIONS.

**23.5.1** The judges are responsible for determining the minimum qualifications of attorneys accepting appointed clients. The qualifications shall be noted in the Plan of Operation.

**23.5.2** SPECIALTY COURT PROGRAMS, PUBLIC DEFENDER, DEFENSE

SPECIALISTS.[11] These categories provide opportunities for lawyers to diversify their practices, to control the size of their caseloads, to choose the types of cases they handle, and to have access to adequate resources to properly defend their clients.

23.5.2.1 SPECIAL MENTAL HEALTH CASELOAD. An assistant Harris County Public Defender with significant previous experience and specialized training in representing mentally ill and intellectually disabled persons charged with a criminal offense, shall represent a defendant:

23.5.2.1.1 Identified by an algorithm composed of data approved by the judges covered by this Alternative Plan in consultation with the chief public defender, indicating a likelihood that mental illness and/or intellectual disability is/are a factor in the defendant's arrest;

23.5.2.1.2 Arrested at least three times during the twelve months prior to the current arrest, with a medical and social history suggesting that court ordered step- down therapy may reduce the probability of future arrests; or,

23.5.2.1.3 Following a finding by a court that the defendant is incompetent.

23.5.2.2 MENTAL HEALTH DEFENSE SPECIALIST. Represents a defendant identified using the mental health algorithm; a defendant found incompetent; or a defendant manifesting signs of mental illness when the Public Defender's Office reaches its daily or annual case load cap. The attorney must satisfy any requirements described in the Plan of Operation.

23.5.2.3 APPEALS AND HABEAS CORPUS. The Harris County Public Defender shall represent all persons appealing a judgment or order of these courts, unless that person is represented by a qualified attorney appointed through the MAC Office who is permitted to represent the person on appeal or if the Harris County Public Defender has a conflict of interest. An attorney appointed by the MAC Office must satisfy any requirements described in the Plan of Operation.

23.5.2.4 BILINGUAL ATTORNEY. Represents a defendant who does not speak or understand the English language. The attorney must satisfy any requirements described in the Plan of Operation.

23.5.2.5 FUGITIVE DEFENSE SPECIALIST. Represents a person who has been arrested in Harris County, Texas on a warrant from another state or another county in Texas. The attorney must satisfy any requirements described in the Plan of Operation.

23.5.2.6 S.O.B.E.R COURT PROGRAM ATTORNEY. Represents a defendant in the S.O.B.E.R Court Specialty program for persons convicted of driving

[11] "Specialist," as used in these Rules, does not refer to any certification through the Texas Board of Legal Specialization.

while intoxicated. The attorney must satisfy any requirements described in the Plan of Operation.

23.5.2.7 VETERANS COURT PROGRAM ATTORNEY. Represents a Veteran or current member of the United States armed forces, including a member of the Reserves, National Guard or State Guard, who has been accepted into Veterans Court Program. The attorney must satisfy any requirements described in the Plan of Operation.

23.5.2.8 DEAF OR HEARING IMPAIRED. Represents a defendant who is deaf, or severely hearing impaired. The attorney must satisfy any requirements described in the Plan of Operation.

**23.6 APPROVAL OF QUALIFIED ATTORNEYS.**

**23.6.1** The MAC Office shall designate the process for approving attorneys qualified for inclusion on the public appointment list in the Plan of Operation. This process should utilize objective standards; it is subject to approval by a majority of judges.

**23.7 VOLUNTARY AND INVOLUNTARY REMOVAL OF APPROVED ATTORNEY FROM THE LIST OF ELIGIBLE ATTORNEYS AND APPEAL.**

**23.7.1** The MAC Office shall designate the process for the voluntary and involuntary removal of attorneys in the Plan of Operation.

**23.7.2** REINSTATEMENT. If eligible for reinstatement, an attorney may request reinstatement by following the application process outlined in the Plan of Operation.

**23.7.3** APPEAL. An attorney removed from the appointment list maintained by the MAC Office may appeal the removal by appealing the MAC Office's decision in writing, as specified in the Plan of Operation.

**23.7.4** NOTICE. The judges shall be notified 14 days in advance of an intended involuntary removal or reinstatement of an attorney.

**23.8 REPLACEMENT OF APPROVED COUNSEL FROM A CASE OR CASES.**

**23.8.1** Generally

23.8.1.1 The MAC Office shall set forth expectations regarding the duration and continuation of the appointment of counsel in the Plan of Operation.

**23.8.2** On Appeal

23.8.2.1 If, at the conclusion of a trial, the indigent client desires to prosecute a direct appeal and requests the appointment of different counsel, the Court may appoint counsel pursuant to this Alternative Plan

**23.9 APPOINTMENT OF COUNSEL.**

**23.9.1** The designating authority is the judge of the court in which the defendant's case is filed, or the courts' designee. The designating authority designates whether the case is appointed to the public defender's office or whether the MAC Office will appoint counsel.

**23.9.2** PERSONS BOOKED INTO THE COUNTY JAIL. The designating authority shall designate either the public defender's office to represent or the MAC office to

appoint counsel as soon as possible, but not later than the end of the first working day after the date on which the court or the courts' designee receives the defendant's request for appointment of counsel.

**23.9.3** PERSON RELEASED ON BOND PRIOR TO BOOKING IN THE COUNTY JAIL. A defendant released on bail before being booked into the Harris County Jail shall appear the 7th day following release (or the next business day following the 7th day if the 7th day is not a business day). Prior to conducting an arraignment proceeding, the judge shall perform the duties required under Article 15.17 and shall designate either the public defender's office to represent or the MAC office to appoint counsel if the defendant requests, and is entitled to, appointed counsel or if the interests of justice require the appointment of counsel.

**23.9.4** PERSON ARRESTED IN ANOTHER COUNTY ON A HARRIS COUNTY WARRANT. Within 24 hours of receiving notice of a defendant's arrest in another county, the judge of the court that issued the arrest process shall designate either the public defender's office to represent or the MAC office to appoint counsel for the defendant.

**23.9.5** PERSON ARRESTED ON OUT-OF-COUNTY WARRANT IN HARRIS COUNTY. A person arrested on an out-of-county warrant must be appointed counsel on the 11th day following the date the defendant was booked into the Harris County Jail if the person has not been transferred or released to the custody of the county issuing the warrant.

**23.9.6** OBTAINING REQUEST FOR APPOINTED COUNSEL FORM. The form used to request appointment of counsel and the financial affidavit in support of the request areavailable to defendants and interested third parties by requesting same from the court coordinator in any county criminal court at law.

**23.9.7** FILING THE FORM. The completed forms shall be filed with the deputy district clerk in the court where the case is pending.

**23.10 DUTY OF APPOINTED COUNSEL.**

**23.10.1** Attorneys accepting appointments through the MAC Office are expected to abide by the expectations set forth in the Plan of Operation.

**23.10.2** FIRST AND SECOND CHAIR COUNSEL. The MAC Office may appoint First and Second Chair Counsel as designated in the Plan of Operation. A Judge must make a finding of good cause prior to any appointment of Second Chair counsel who anticipates receiving compensation or reimbursement under any provision found in Local Rule 23.13. This rule does not limit the ability of the Court, in its sole discretion, to appoint as Second Chair counsel an attorney who is not MAC approved—so long as (1) the judge finds good cause for appointment of Second Chair counsel; (2) the non-MAC-approved attorney agrees that he or she will not be compensated for his or her role as Second Chair counsel; and (3) the client consents.

23.10.2.1 FIRST-CHAIR COUNSEL

23.10.2.1.1 All motions filed in the case shall be filed in the name of first-chair counsel.

23.10.2.1.2 First-chair counsel shall appear on all matters before the Court and speak for the defendant.

23.10.2.1.3 First-chair counsel may assign tasks to second-chair counsel on behalf of the defendant.

23.10.2.2 SECOND-CHAIR COUNSEL

23.10.2.2.1 Under the direction and in the presence of lead counsel, second-chair counsel may prepare, present, or argue motions, examine witnesses, and participate in a hearing or trial.

23.10.2.2.2 Second-chair counsel shall complete and file an attorney of record form with the district clerk.

23.10.2.2.3 Second-chair counsel is only entitled to be compensated if appointed by the MAC Office pursuant to the Plan of Operation and subject to approval by the court.

23.10.2.2.4 Compensated Second-chair counsel shall be present for the entire trial.

23.10.2.3 SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED. Only with approval of the judge presiding, may an attorney send another attorney not designated as counsel in the case to appear on the attorney's behalf. If agreed to by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts. The attorney shall not be entitled to compensation for his appearance unless the attorney is MAC approved. Under no circumstances can the appointed attorney *and* substituted counsel *both* be compensated for the same appearance.

**23.11 THE FAIR, NEUTRAL AND NONDISCRIMINATORY ATTORNEY SELECTION PROCESS.**

**23.11.1** Each assignment shall be in accordance with Article 26.047, Code of Criminal Procedure. The Public Defender's Office shall have priority in appointments in criminal proceedings. If the Public Defender's Office is not eligible for the appointment, each assignment shall be impartially distributed by the MAC Office among the list of attorneys eligible as designated in the Plan of Operation.

**23.11.2** ATTORNEY CATEGORIES. The MAC Office shall set forth the different categories of appointments in the Plan of Operation and shall designate each attorney as eligible or ineligible to receive those categories of appointments.

**23.11.3** INVESTIGATOR CATEGORIES. The MAC Office shall set forth the different categories of investigative assignments in the Plan of Operation and shall designate each attorney as eligible or ineligible to receive those categories of appointments.

**23.11.4** ASSIGNMENT TYPE. The MAC Office shall determine how cases are assigned to lawyers and designate the method and type of assignment in the Plan of Operation.

**23.11.5** ANNUAL CASELOAD LIMITS. The MAC Office shall designate the annual caseload limits, the method of calculating the caseload limits, and policy for ensuring the limits are not exceeded in the Plan of Operation.

**23.11.6** DAILY CASELOAD LIMITS. The MAC Office shall designate daily caseload limits in the Plan of Operation.

**23.11.7** MAC PLAN OF OPERATION The MAC Office shall notify the Presiding Judge of the Harris County Criminal Courts at Law of any intention to amend its Plan of Operation. The MAC Office must provide notice to amend its Plan of Operation to the Presiding Judge at least 45 days prior to any MAC Advisory Board meeting where proposed amendments are to be discussed or

voted upon. This notice must specify which parts of the Plan of Operation may be amended. Any amendment to the MAC Plan of Operation must be approved by a majority of judges.

## 23.12 CONFIDENTIALITY OF INFORMATION.

**23.12.1** As part of the MAC Office's operations, the office will receive confidential attorney-client information, protected by the Sixth Amendment and attorney-client privilege that is necessary for the MAC Office to support attorneys receiving appointments through the office. The provision of resources necessary to ensure an attorney can provide effective assistance of counsel cannot be conditioned on a waiver of attorney-client privilege.[1] Attorneys interacting with the MAC Office cannot be afforded less protection than attorneys making an *ex parte* request to the Court or an assistant public defender making a request for assistance in a case. The MAC Office is required under this Plan and these rules to protect any privileged information it receives to the extent permissible by law.

## 23.13 FEE AND EXPENSE PAYMENT PROCESS.

**23.13.1** FEE SCHEDULE. Appointed counsel shall be compensated for all time reasonably necessary to adequately represent the defendant according to the following fee schedule, and as set forth in his or her contract for indigent defense services with Harris County, Texas.[12]

**23.13.2** BASE HOURLY RATE.

23.13.2.1 Attorneys:

23.13.2.1.1 In-court hours not otherwise described in this section — $100/hr.

23.13.2.1.2 Out-of-court —$100/hr.

23.13.2.1.3 Appeals and post-trial writs—$100/hr.

23.13.2.1.4 Out of court (mental health caseload) — $140/hr.

23.13.2.1.5 Hearings with sworn oral testimony — $140/hr.

23.13.2.1.6 Trial (includes competency or sanity) — $140/hr.

23.13.2.1.7 Oral argument and post-trial writ hearings — $140/hr.

23.13.2.1.8 Mental Health Defense Specialist — $140/hr.

23.13.2.1.9 Specialty court — $175/hr.

[1] *See generally*, *Leday v. State*, 983 S.W.2d 713, 719 (Tex. Crim. App. 1998) (accused cannot be forced to waive one right to assert another right in the context of a trial); *Speiser v. Randall*, 357 U.S. 513, 526 (1958) (prohibiting government to implement a procedure which produces a result the government cannot command directly).

[12] *See* TEX. ADMIN C. TITLE 1, PART 8, SUBCHAPTER B §§174.10 et seq.

23.13.2.2 Hourly rates shall be paid in six-minute intervals for appointed counsel's performance of the appropriate statutory services defined in TEX. CODE CRIM. PROC. ANN. art. 26.05(a), based on the time and labor required, the complexity of the case, and the experience and ability of the appointed counsel. The hourly rates set by these rules contemplate and are inclusive of administrative and overhead costs.

23.13.2.3 Appointed counsel shall not be compensated for work performed by others whom they supervise or employ (either attorneys or non-attorneys).

23.13.2.4 Although appointed counsel shall be compensated under Article 26.05(a)(2) for reasonable and necessary time spent out of court representing an indigent defendant, time spent on administrative tasks such as voucher or invoice preparation shall not be compensable. While reasonable and necessary, such time is spent representing counsel's own interests, not those of his client.

23.13.2.5 All vouchers must include: (1) the date the work was performed; and (2) the time the work was performed. For example, a voucher should list the task performed and "January 1, 2026, 2:00 p.m. – 3:00 p.m. Such specificity will assist in performing any necessary audit.

23.13.2.6 When a non-bilingual attorney bills $250,000 or a bilingual attorney bills $300,000 within a fiscal year, intake assignments will be paused and subject to an audit by the Harris County Auditor's Office.

**23.13.3** PER-CASE FEE. Appointed counsel shall be compensated for each case assigned to the attorney, unless the attorney withdraws on or before the first court setting after appointment of counsel in the case.

23.13.3.1 Per appointment fee—$100/case.

23.13.3.2 Per appointment fee for bilingual attorneys —$125/case.

**23.13.4** DAILY MINIMUM ON INTAKE DAYS. On days the attorney participates in case intake as scheduled by the MAC Office, the attorney may receive the following daily minimum in lieu of Per-Case Fees if the total Per-Case Fee for that attorney on that day is less than the daily minimum.

23.13.4.1 REQUIREMENTS. To receive the daily rate for participating in an intake day, an attorney shall:

23.13.4.1.1 physically appear for docket call at the time and place designated by the judge of the assigned court unless physical presence is not required by the assigned court;

23.13.4.1.2 accept appointments in that court or any other county court to which the attorney may be assigned on that day;

23.13.4.1.3 remain available to the judges of the County Criminal Courts at Law until the courts' morning docket call is concluded, or the attorney is released by the judge of the court to which the lawyer is assigned; and

23.13.4.1.4 Provide professional services, including the resetting of cases, first to appointed cases in the County Criminal Courts at Law.

**23.13.5** DAILY MINIMUM FEE SCHEDULE

23.13.5.1 Daily minimum fee each intake day, attorneys who speak only English—$250/day.

23.13.5.2 Daily minimum fee for each intake day, bilingual attorneys—$300/day.

**23.13.6** INVESTIGATORS – Investigators approved by the MAC Office shall be paid an hourly rate based on whether they speak only English or whether they are bilingual.

23.13.6.1 Hourly rate, investigators who speak only English— $80/hr:

23.13.6.2 Hourly rate, bilingual investigators—$84/hr.

**23.13.7** EXPENSES.

23.13.7.1 Reasonable and Necessary Expenses

23.13.7.2 Out-of-county travel expenses will be reimbursed with prior approval by the Court, using county rates and policies.

23.13.7.3 Counsel shall submit requests for reimbursement in accordance with Harris County policies.

**23.13.8** ADDITIONAL COMPENSATION.

23.13.8.1 An attorney appointed to represent an indigent defendant shall not accept additional compensation for professional services performed on behalf of the defendant, as a result of the appointment, in any form from any source other than Harris County, Texas, including compensation for representation of the defendant in an occupational driver's license hearing where the petition for occupational license is filed in a County Criminal Court at Law.

23.13.8.2 A *de minimis* token of appreciation from a client shall not be deemed "additional compensation."

**23.13.9** MANAGED ASSIGNED COUNSEL DETERMINATION OF ATTORNEY COMPENSATION.

23.13.9.1 In consultation and conjunction with the Harris County Auditor, the Harris County Treasurer, the judges, and any other County departments involved in the payment of claims, the MAC Office shall designate the procedure for appointed attorney compensation in the Plan of Operation.

23.13.9.2 The Judges for the County Criminal Courts at Law Trying Criminal Cases in Harris County each retain the right to consider, grant, or deny any and all requests for advance payment or reimbursement expenses for investigation services as set out in TEX. CODE CRIM. PROC. ANN. arts. 26.052(f), (g), and (h).

**23.14 PAYMENT BY COUNTY AUDITOR**.

**23.14.1** The Harris County Auditor shall only pay a claim submitted by an attorney whose name appears on the list of approved attorneys assigned to participate in intake during term or date assigned by FDAMS or who is individually appointed to a client's case. The MAC Office shall provide the County Auditor's Office with a current list of attorneys certified to accept appointments. The Auditor shall send a claim submitted by an attorney who is not on the list of certified attorneys to the Executive Director of the MAC Office.

**23.14.2** ORIGINAL INVOICE OR RECEIPT. Counsel shall submit the original invoice or receipt along with any request for reimbursement.

**23.14.3** Appointed attorneys shall not file interim vouchers without prior permission from the Court.

**23.15 SYSTEM PERSON NUMBER (SPN).**

**23.15.1** To ensure accuracy in the tracking and reporting of fees paid to attorneys and others under this Alternative Plan, the Auditor shall amend the current attorney fee voucher to include a space for the Justice Information Management System Person Number of the individual seeking payment of county funds.

**23.16 CONTRACT DEFENDER PROGRAM.**

**23.16.1** In all term assignments the appointing authority shall follow the Texas Indigent Defense Commission Contract Defender Program Rules, as published in The Texas Administrative Code, Title I, Part 8, Chapter 174 sub chapter B, Part II, as setout below:

II. APPLICATION OF STANDARDS AND CONTRACTING PROCEDURES

§174.11. Application of Subchapter. This Subchapter applies to all contract defender programs. This Subchapter does not apply to public defender programs established and governed by Chapter 26, Code of Criminal Procedure.

§174.12. Application Process. The appointing authority shall solicit and select contractors in accordance with the procedure governing alternative appointment programs contained in Article 26.04, Code of Criminal Procedure.

(a) Notification. The notification of the opportunity to apply (NOA) to be a contractor shall be distributed in a manner that reasonably covers all practicing members of the bar within the county or other region designated by the appointing authority. The notification shall inform attorneys of all requirements for submitting applications.

(b) Opportunity to Respond. All potential contractors shall have the same opportunity to respond to the NOA and be considered for the award of a contract.

(c) Application. All applications must be submitted in writing and shall be maintained by the appointing authority or contracting authority in accordance with the Texas State Library and Archives Commission Retention Schedule for Local Records- Local Schedule GR.

§174.13. Application Review Process. Following the review of all applications the appointing authority shall by a majority vote select contractor(s), specify the types of cases each contractor is qualified to handle, and authorize the contracting authority to enter into a contract. The attorneys associated with the selected contractor(s) must meet the attorney qualification requirements contained in the indigent defense procedures adopted pursuant to Article 26.04, Code of Criminal Procedure. If the contract does not exclude capital cases in which the death penalty is sought, the attorneys associated with the selected contractor(s) must also meet the attorney qualifications set by the regional selection committee and be approved by the regional selection committee to represent clients in capital cases. The appointing authority shall consider at least the following factors when evaluating applications:

(a) Experience and qualifications of the applicant;

(b) Applicant's past performance in representing defendants in criminal cases;

(c) Applicant's disciplinary history with the state bar;

(d) Applicant's ability to comply with the terms of the contract; and

(e) Cost of the services under the contract.

§174.14. Awarding the Contract. In accordance with Article 26.04(h), Code of Criminal Procedure, the contracting authority may approve the recommended contractor(s) and enter into a contract for services. The contracting authority shall enter into a contract only if it complies with these standards and all applicable law governing professional services contracts entered into by counties. A contract shall not be awarded solely on the basis of cost.

**23.17. TRANSITION PLAN**

23.17.1 The MAC Office shall designate a transition plan within the Plan of Operation. If the MAC Office cannot implement changes needed to fully execute the Plan of Operation, it may operate under the Alternative Plan for Appointment of Counsel approved on April 9, 2021 in a manner it deems consistent with its requirements until the requisite changes are made.

23.17.2 Any changes to the Fee and Expense Payment Process shall be implemented as soon as practicable after making any necessary changes and related software and

obtaining approval from County officials but shall be implemented no later than 6 months from the approval of these Local Rules. Until the required approvals are obtained, changes are implemented, and the changes are officially announced to the defense bar, payment will continue to operate in the manner approved on October 22, 2021.

## RULE 24. ASSOCIATE JUDGES

**24.1.** Pursuant to Texas Government Code 54A.002 (d), the County Criminal Courts at Law establishes this rule to govern Associate Judge Positions to serve all County Criminal Courts at Law Trying Criminal Cases in Harris County.

**24.2.** The appointment of each Associate Judge Position shall be made by County Criminal Courts at Law by approval of two-thirds (2/3) of the elected Judges for the County Criminal Courts at Law Trying Criminal Cases in Harris County.

**24.3.** The qualifications for Associate Judges shall be governed by Texas Government Code 54A.003. In addition, to qualify for an appointment as an Associate Judge to serve all County Criminal Courts at Law Trying Criminal Cases in Harris County, a person must possess the following:

**24.3.1.** significant criminal law experience, including knowledge of statutory and constitutional procedure, court trial procedure, the Texas Code of Criminal Procedure, and the Texas Penal Code;

**24.3.2.** the ability to conduct objective hearings; evaluate facts; and apply knowledge of the law to issues arising in misdemeanor cases; and

**24.3.3.** the capability of handling busy, diverse, dockets with minimal supervision.

**24.4.** The compensation for Associate Judges shall be governed by Texas Government Code 54A.004

**24.5.** The termination of an Associate Judges shall be governed by Texas Government Code 54A.005.

**24.6.** The Judges for the County Criminal Courts at Law Trying Criminal Cases in Harris County may refer any of the following matters to an Associate Judge pursuant to Texas Government Code 54A.006.

24.6.1. (a) a negotiated plea of guilty or no contest before the court;

24.6.2. (b) a bond forfeiture;

24.6.3. (c) a pretrial motion;

24.6.4. (d) a writ of habeas corpus;

24.6.5. (e) an examining trial;

24.6.6. (f) an occupational driver's license;

24.6.7. (g) an appeal of an administrative driver's license revocation hearing;

24.6.8. (h) a civil commitment matter under Subtitle C, Title 7, Health and Safety Code;

24.6.9. (i) setting, adjusting, or revoking bond;

24.6.10. (j) the issuance of search warrants, including a search warrant under Article 18.02(a)(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure; and

24.6.11. (k) any other matter the judge considers necessary and proper.

24.6.12. (l) An associate judge may accept an agreed plea of guilty or no contest from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses and may assess punishment if a plea agreement is announced on the record between the defendant and the state.

24.6.13. (m) An associate judge has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

24.6.14. (n) An associate judge may select a jury. Except as provided in Subsection (l), an associate judge may not preside over a trial on the merits, whether or not the trial is before a jury.

**24.7.** Each County Criminal Courts at Law Trying Criminal Cases in Harris County referring a matter to an Associate Judge shall enter an Order of Referral pursuant to Texas Government Code 54A.007 and the procedural rules of docketing and transferring cases established by the Rules of Court of the Harris County Criminal Courts at Law (Local Rules).

**24.8.** The powers of the Associate Judges shall be governed by Texas Government Code 54A.008.

**24.9.** All other requirements and limitation on Associate Judges pursuant to Subchapter A of Texas Government Code 54A will apply.

## RULE 25. DISASTER PLAN [13]

**25.1.** It is the intention of the Judges of these courts to establish a coordinated response for the transaction of essential judicial functions in the event of a disaster.

**25.2. DEFINITIONS**

**25.2.1.** As used herein, the following terms and phrases shall have the following meanings:

**25.2.1.1.** Criminal Law Hearing Officer means a judicial officer created by Chapter 54, Subchapter L of the Texas Government Code (§§ 54.851 et seq.)

**25.2.1.2.** Defendant means a person detained, arrested, or otherwise in the custody of a law enforcement agency for a misdemeanor offense.

**25.2.1.3.** Judge or judges means a Judge of a Harris County Criminal Court at Law.

**25.2.1.4.** Disaster means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public

[13] *See* TEX. GOV'T CODE ANN. § 74.093(c)(2).

calamity requiring emergency action, or energy emergency" as provided by Section 418.004, Texas Government Code.

**25.2.1.5.** Quorum vote means two-thirds of the judges of these courts.

**25.2.1.6.** Presiding Judge means the presiding judge of these courts.

### 25.3. MODIFICATION OR SUSPENSION OF THESE RULES DURING A DISASTER

#### 25.3.1. Judicial Action

25.3.1.1. The Judges by quorum vote may modify or suspend one or more of these rules during the pendency of the disaster declared by the governor.

25.3.1.2. An order under this provision shall:

25.3.1.2.1. extend for not more than 30 days from the date the order is signed unless renewed; and.

25.3.1.2.2. be consistent with other law.

#### 25.3.2. Lack of a Majority

25.3.2.1. If a disaster prevents the judges from immediately acting as provided above, the Presiding Judge may act on their behalf.

25.3.2.2. If a disaster prevents the presiding judge from acting under this rule, the co-presiding judge may act on their behalf.

### 25.4. INCLEMENT WEATHER POLICY

**25.4.1.** The County Criminal Courts at Law Inclement Weather policy, specifically states, "If Houston Independent School District cancels classes, then all bond matters in the County Criminal Courts at Law **will be cancelled on the days classes are cancelled**. Jail cases and/or emergency matters may still be handled either via zoom or in person. Should the HISD closure last more than two (2) days, the County Criminal Courts at Law will communicate an alternate schedule on its website at https://www.ccl.hctx.net/criminal/. An individual County Court at Law Judge may opt out of this portion of the protocol by providing the Office of Court Management with written notice of the Court's decision and by publishing the individual Court's schedule on the County website. Please contact the individual court for new court dates, further instructions, and/or questions.

## RULE 26. SLIDING-SCALE FEE SCHEDULE FOR GLOBAL POSITIONING SYSTEM[14]

**26.1.** If, upon consent of the victim to wearing a global positioning monitoring system receptor device, a judicial officer determines that the likelihood of the defendant's participation in a global positioning monitoring system program described by TEX. CODE CRIM. PROC. ANN. art. 17.49 (Vernon 2009) will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim, the judicial officer shall determine if the defendant is

[14] *See* TEX. CODE CRIM. PRO. ANN. art. 17.49.

financially able to pay the costs of the receptor device, and the global positioning monitoring systems transmitter or similar device. If the judicial officer determines that the defendant is indigent, the judicial officer shall require the defendant to pay costs of the electronic receptor device and transmitter according to the following sliding scale:

| Net Annual Income (from Sliding Scale Worksheet) | Percent of Total Fee per Service |
|---|---|
| $0-$12,000 | 38% |
| $12,000-$18,000 | 45% |
| $18,001-$24,000 | 50% |
| $24,001-$33,000 | 55% |
| $33,001-$42,000 | 60% |
| $42,001-$55,000 | 65% |
| $55,001-$70,000 | 80% |
| $70,001 and above | 100% |

## APPENDIX A: APPROVED INTENSIVE TRAINING PROGRAMS

The following programs are currently approved as "intensive training programs" as used in Rule 24.5.1.2.2:

- TexasBarCLE Advanced Criminal Law course
- Gideon's Promise 14-day training session
- Gerry Spence Trial Lawyer's College
- Criminal Defense Trial Skills & Trial Law Program at The Center for American and International Law
- TCDLA Texas Criminal Trial College