

COMPENSATION OF COURT APPOINTED COUNSEL

A. Fee Schedule

Pursuant to Article 26.05, Texas Code of Criminal Procedure, the constitutional county court, statutory county courts and district courts of Midland County with criminal jurisdiction, having taken into consideration the reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, have adopted the following schedule of fees for the compensation of counsel appointed to represent a defendant in a criminal proceeding:

In all cases, counsel shall request payment by submitting the attached Attorney’s Fee Voucher. (Form 5).

In all cases unless otherwise specified, The fee is inclusive of all court appearances, out of court services performed and expenses incurred by counsel in the proceeding. This includes but is not limited to: Grand Jury appearance; Pre-Indictment Appearance; Post-Indictment Appearance; Arraignment; Pretrial Conferences; Routine Jail Visits; Interviews; Investigations; Compliance with Texas Code of Criminal Procedure 39.14; and Other Out of Court Time.

However, in extraordinary circumstances, counsel may submit an Attorney’s Fee Voucher, that is subject to judicial approval.

1. Guilty Plea

Counsel shall be compensated for a felony criminal proceeding resulting in a negotiated plea of guilty, as follows: (Section 12 applies to multiple cases)

1 st and 2 nd Degree.....	\$1,500.00
3 rd & State Jail.....	\$1,000.00

Counsel shall be compensated for a misdemeanor criminal proceeding resulting in a negotiated plea of guilty, as follows: (Section 12 applies to multiple cases)

Class A and B.....	\$750.00
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2. Revocations

Counsel shall be compensated for a felony criminal proceeding resulting in a negotiated plea of true, as follows: (Section 12 applies to multiple cases)

1 st and 2 nd Degree.....	\$1,500.00
3 rd & State Jail.....	\$1,000.00

Counsel shall be compensated for a misdemeanor criminal proceeding resulting in a negotiated plea of true, as follows: (Section 12 applies to multiple cases)

Class A and B.....\$750.00

3. Dismissal or Rejection with No Re-Indictment and No Misdemeanor Filing/Substitution of Counsel/Withdrawal of Counsel

If a felony criminal proceeding is dismissed, counsel is substituted or counsel withdraws from representation, counsel shall be compensated at a fixed rate of \$650.00.

If a misdemeanor criminal proceeding is dismissed, counsel is substituted or counsel withdraws from representation, counsel shall be compensated at a fixed rate of \$500.00.

4. Dismissal with Misdemeanor Filing

In the event the dismissal is for the purpose of filing a misdemeanor charge against the same defendant, no fee shall be paid for the dismissal of the felony charged. Counsel shall continue to represent the defendant on the misdemeanor, but shall be compensated at the felony rate.

Misdemeanors handled in District Courts as lesser included offenses to felony charge shall be paid the rate of the original felony charge.

5. Competency Proceeding

Counsel shall be compensated for competency proceedings at a flat rate of \$750.00. Counsel shall submit a separate Attorneys Fee Voucher (Form 5) at the conclusion of all competency proceedings.

6. Ad Litem Appointments

Ad Litem counsel shall be compensated for proceedings at a flat rate of \$750.00. Counsel shall submit a separate Attorneys Fee Voucher (Form 5) at the conclusion of all proceedings.

7. Co-Counsel

Co-Counsel may be appointed upon request and shall be appointed for good cause only. Co-Counsel shall be compensated in accordance with this fee schedule.

8. Trials

FELONY:

Out of court services	\$200.00/hour
In court services	\$200.00/hour

Trial

Half day rate	\$1,000.00
Full day rate	\$2,000.00

The Attorneys shall submit the attorney fee voucher form as attached with list of itemized services. (Form 5)

MISDEMEANOR:

Out of court services	\$150.00/hour
In court services	\$150.00/hour

Trial

Half day rate	\$1,000.00
Full day rate	\$2,000.00

The Attorneys shall submit the attorney fee voucher form as attached with list of itemized services. (Form 5)

9. Out of Court Services

“Out of court services” means the reasonable and necessary time of counsel for conferences, negotiation, and trial preparation in criminal proceedings resulting in a contested trial. *It does not include routine legal research.*

In felony cases, the billing rate for out of court services is \$200.00 per hour. Out of court services shall not exceed 25 hours. In misdemeanor cases, the billing rate for out of court services is \$150.00 per hour. Out of court services shall not exceed 15 hours.

10. In Court Services

“In court services” includes all hearings or in court appearances excluding trial days.

In felony cases, the billing rate for in court services is \$200.00 per hour. In court services shall not exceed 8 hours. In misdemeanor cases, the billing rate for In court services is \$150.00 per hour. In court services shall not exceed 8 hours.

11. Capital Cases in Which the State Seeks the Death Penalty

Counsel shall be compensated in capital felony criminal proceedings in which the State seeks the Death Penalty, as follows:

- a. Lead trial counsel shall be compensated at an hourly rate of \$300.00 per hour for all services performed, not to exceed a total amount set by the presiding judge of the court in which the case has been assigned.
- b. Second chair trial counsel shall be compensated at an hourly rate of \$250.00 per hour for all services performed, not to exceed a total amount set by the presiding judge of the court in which the case has been assigned.
- c. In cases in which the District Attorney no longer seeks the death penalty, the counsel shall be compensated as provided for a felony.

12. Multiple Cases

Cases are defined as separate cause numbers not several Counts contained in a single Indictment.

If a defendant has multiple cases which are disposed on or about the same time, counsel shall be compensated as follows:

1. The standard plea rate for one case and additionally:
 - a. Felony - \$150.00 per case not to exceed three cases: and
 - b. Misdemeanor - \$75.00 per case not to exceed three cases.

13. Appellate Services

Counsel shall be compensated in criminal appellate and writ proceedings, as follows:

- a. Felony – counsel shall be compensated at an hourly rate of \$200.00 per hour, not to exceed \$10,000.00.
- b. Misdemeanor – counsel shall be compensated at an hourly rate of \$200.00 per hour, not to exceed \$10,000.00.
- c. For appeals of death penalty sentences, appellate counsel shall be compensated at an hourly rate of \$300.00 per hour, not to exceed a total amount set by the presiding judge of the court in which the case has been assigned.
- d. Upon prior written court approval, counsel shall be reimbursed for reasonable and necessary expenses to appear before an appellate court, including transportation, lodging and meals. Reimbursement shall be at the rates authorized by the Commissioners Court of Midland County, Texas for reimbursement of travel expenses of county employees.
- e. However, in extraordinary circumstances, counsel may submit an Attorney's Fee Voucher, that is subject to judicial approval.

14. Post-Conviction Writ of Habeas Corpus

If an attorney is Ordered to respond to a post-conviction Writ of Habeas Corpus (*Texas Code Criminal Procedure §11.07; 11.072*), or appear at a hearing on a post conviction writ the attorney shall be compensated as follows:
\$600.00.

15. Extraordinary Circumstances

This plan recognizes that not all cases fit under the fixed fee schedule and in rare circumstances, additional fees may be necessary. All additional fees are under the sole discretion of the trial judge. Extraordinary circumstances are circumstances where the attorney expends an extraordinary amount of time, attends multiple hearings or in the representation of an exceedingly difficult client so that payment of the flat fee would result in an unfair burden or financial hardship on the attorney. If claiming fees under this paragraph, counsel shall use the attached Attorney's Fee Voucher Form and attach an itemization of all services performed, using additional pages as needed. The maximum amount allowable under this provision is \$10,000.00.