

**MONTGOMERY COUNTY RULES OF ADMINISTRATION  
FOR FELONY CASES**

**Purpose**

The primary purpose of the Rules of Administration for Felony Cases is the efficient and fair management of court dockets and trials. These rules should be followed to assist in the efficient and Just disposition of cases with unnecessary delay to the parties.

"Felony Trial Judges" shall refer to all judges that hear felony cases. Our courts are all general jurisdiction courts and have the ability to hear all types of cases and nothing in this should preclude the Board of Judges from assigning cases in a different manner if the needs of Montgomery County change due to demographics or case filings.

**Rule 1  
General**

**1.1.1 Assignment of Cases After Indictment**

Except as otherwise provided in this Rule, the Clerk shall equally distribute every criminal case filed by indictment into the five District Courts. An instantar arrest will be assigned differently based on what court is being assigned cases for that week. The Board of Judges has the ability to change these practices at any time in order to facilitate a more efficient disposition of cases.

Capital cases shall be assigned on a rotation basis among the District Courts. Capital cases may also be transferred for efficiency in the interest of justice to another court.

**1.2** Each numbered or lettered paragraph of these Rules of Administration for Felony Cases shall be considered to be separate and distinct from all other portions hereof. If any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not declared to be improper.

**1.3** Co-defendants in felony cases shall be assigned to the same court and shall be transferred in the event they are inadvertently placed in different courts.

**Rule 2  
Exchange of Cases**

The courts may at any time exchange cases and benches to accommodate their dockets or to expedite the court's trials.

**Rule 3  
Fair Distribution of Cases**

The Administrative District Court Judge may transfer cases between County Courts at Law if he/she finds that a court has an inequitable burden due to illness, complex litigation, trial schedule, or other sufficient reasons.

**Rule 4**  
**Attendance at Settings**

**4.1** Defendants must be personally present in court at all Motions Docket, Plea Docket, Call Docket, and Trial Docket settings as set forth below.

**4.2** In the event, there is a serious emergency or in the event the Texas Supreme Court or the Court of Criminal Appeals allows for it, counsel for defendant may request that he or she be allowed to appear remotely with their client. If there is an order from a higher court allowing for this, the Court may allow the defendant to appear remotely. However, the Court must receive a request from the party prior to the court date and must allow it.

**Rule 5**  
**Self-Represented Defendants**

**5.1** Self-Represented Defendants must be personally present in court at all Court settings.

**5.2** Self-represented defendants will be held to the same standard as defendants that have counsel and are encouraged to either retain an attorney or be interviewed to see if they qualify for a court-appointed attorney. The Court will allow the case to be reset if the defendant would like additional time to hire an attorney. However, if they choose to represent themselves they will be given that right based on the United States and Texas Constitutions. The Court will have questions for the defendant that must be addressed on the record including but not limited to the age of the defendant, the education level of the defendant, etc. pursuant to rules set out in case law concerning the right of self-representation. Stand-by counsel may also be appointed to assist in the event the defendant chooses to relinquish his or her right to self-representation due to the serious nature of felony charges.

**Rule 6**  
**Resets**

Cases may be reset at times and a new date will be given. Most cases will not receive a reset date more than 30 days from the current court date. Both the State and Defendant will receive the new date and if it set for a hearing on bail or a revocation hearing, for instance, both sides shall receive notice in order for them to be able to call witnesses and present evidence.

**Rule 7**  
**Trial Settings**

**7.1** A case may be set for trial at any time. Defendant should file pre-trial motions and request a date for them to be heard. Some motions will be carried with the trial depending on a decision by the Court.

A standard discovery order is filed in every case and felony courts follow the guidelines set out in the Michael Morton Act. A "call docket" will be scheduled prior to trial and the defendant will be allowed to address any additional motions. If possible, defendants are encouraged to file pre-trial motions by the call docket so the Court will be aware of the issues and can hear any motions at that time. (such as Motions in Limine)

- 7.2 Defendants that are in custody will have their cases heard first then the oldest cases will be heard in order unless the case has been preferentially set for trial
- 7.3 Defendants may request that their case be set preferentially in the event it is a case that involves a complex matter or a large number of witnesses. The Court will also be able to set a case preferentially in the interest of justice on a case by case basis for proper management of the Court's time and for efficiency.
- 7.4 Discovery is obtained by an online portal set up with the Montgomery County District Attorney's Office although some responses may be submitted to the defendant in writing or by electronic media.

#### Rule 8

##### Bond Forfeiture

Defendant's bond will be set aside if he or she does not appear at all settings including call docket, trial setting, pre-trial settings, etc.

#### Rule 9

##### Adoption, Approval and Amendment of These Rules of Administration for Felony Cases

9.1 These Rules of Administration for Felony Cases are adopted by the Felony Trial Judges for all purposes. On January 1, 2023, upon the signature of majority of Felony Trial Judges and posting to the Office of Court Administration's website, these Rules of Administration for Felony Cases shall become effective and remain in effect so long thereafter until amended, repealed, or modified.

9.2 These Rules of Administration for Felony Cases may be amended, repealed, or modified by a vote of one half of the Felony Trial Judges.

Adopted on the 12<sup>th</sup> day of December, 2022, to become effective on January 1, 2023.

  
\_\_\_\_\_  
JUDGE PHIL GRANT  
9<sup>th</sup> JUDICIAL DISTRICT COURT

  
\_\_\_\_\_  
JUDGE LISA MICHALK  
221<sup>st</sup> JUDICIAL DISTRICT COURT

  
\_\_\_\_\_  
JUDGE KATHLEEN HAMILTON  
359<sup>th</sup> JUDICIAL DISTRICT COURT

  
\_\_\_\_\_  
JUDGE PATTY MAGINNIS  
435<sup>th</sup> JUDICIAL DISTRICT COURT